

Town of Rowe – FY2010
Board of Selectmen
Minutes – Tuesday, June 8, 2010 – 5:00pm

Call to order: The meeting was called to order at 5:00pm by Selectman McLatchy.

Present: Selectmen Bill Loomis, Paul McLatchy III and Jennifer Wood; Town Coordinator Ellen Miller

Welcome Back Bill: Chair Bill Loomis was welcomed back after being out on medical leave.

DPW: Supt. Jim Taylor attended the meeting to discuss several items.

- **Paving:** He informed the Selectmen that he will not have enough funds for paving this year. It will be more expensive than originally thought. Will need to use some funds in Annual Highway Projects. For paving around municipal buildings, fire trucks will need to be moved out of the area for two days. Perhaps the school. Supt. Taylor will make arrangements with Ed May. Paving will take place this Friday or Monday.
- **New Lawn Tractor:** Will also be purchasing leaf collector and snowblower attachments.
- **Boom Mower:** Jim did not have reliable info when he obtained pricing for the boom mower. The commercial version will cost \$25K, not \$15K as originally thought, which means he needs another \$10K. The Selectboard voted unanimously to support his request for the commercial mower.

Appointments: The Selectboard voted unanimously to make the following appointments:

- **Old Home Day Committee:** John Magnago
- **Fire Chief:** Jim White for FY2011
- **Energy Committee:** Dan Miller

Fire Chief Stipend: A Municipal Relief Transfer transferring \$270 from Fire Officer Stipend account to Fire Chief stipend account will be prepared, so that Mr. White can get paid for the month of June.

Apology Letter: The Selectboard voted unanimously to have Ms. Miller draft a letter to Town Counsel Janet Pumphrey apologizing for the rude behavior of the Planning Board chair towards Ms. Pumphrey at the Annual Town Meeting on May 10th. Mr. Roberson was asked by a Planning Board member to send an apology to Ms. Pumphrey, but he declined.

Organization of the Board: Chair Loomis nominated Mr. McLatchy as the new chair. Mr. McLatchy then nominated Mr. Loomis as Chair. Mr. Loomis declined to serve. The Board then voted unanimously to elect Mr. McLatchy as chair.

Meeting with Town Counsel: The Selectboard will invite all town boards, committees and officials to a meeting with town counsel sometime in July, where they will be able to share their experiences—good or bad. The Planning Board chair has criticized town counsel several times at Planning Board meetings, and did so again at the Annual Town Meeting.

Town Website News: The Selectboard asked Ms. Miller to put a notice in the Goal Post asking that boards and committees submit news to her to put on the town website. Information from boards and committees will not be edited.

New Tents: Selectman Loomis will see Ms. Miller next week re purchasing new tent(s).

Unemployment Claim: An unemployment claim invoice in the amount of \$1,570 was received. It appears to Ms. Miller that the town is being overcharged. She will file a protest. Bill must be paid in advance of protest. Only \$1,000 in line item. Municipal Relief Transfer will be needed for \$570.

Group Medical Account Short: Ms. Miller informed the Board that this account will run short by about \$12,300.

Correspondence:

- **US Census Bureau:** Town boundary maps were sent by the U.S. Census Bureau, asking that boundaries be validated. Ms. Miller will review the maps with Supt. Taylor, and contact the census bureau.

Minutes: Minutes of the February 25 and March 3 meetings were unanimously approved.

Building Inspector's Report: Report for May 2010 was reviewed.

Police Log: None

Warrants: TW #26 and PW #26 were approved for payment.

Next Meeting: Tuesday, June 22, at 5:00pm.

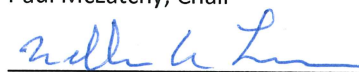
Adjournment: The Selectboard voted unanimously to adjourn the meeting at 6:24pm.

Respectfully submitted,
Ellen B. Miller, Town Coordinator

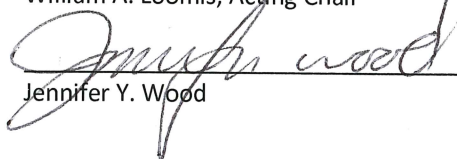
Approved:



Paul McLatchy, Chair



William A. Loomis, Acting Chair



Jennifer Y. Wood

Sept 20, 2010

Date Approved

Documents:

- Agenda
- US Census Bureau memo re Boundary Validation Program

Town of Rowe – FY2010
Board of Selectmen
Meeting Agenda – Tuesday, June 8, 2010 – 5:00pm

1. Call to Order
2. Audience of Citizens
3. Appointments: John Magnago – Old Home Day Committee
4. Old Business
 - a. Gracy House: To Do List: pave parking area Friday 6/11 or Mon 6/14
 - b. Town Counsel Communications
 - c. Verizon Petition – ongoing (DTC handling investigation)
 - d. Police Matters: new officers; MIRCS access; IT quotes: \$1,025/workstation & camera/\$200 [gave to Chief 1-20-10]
 - e. MIIA Loss Control Report dated 11-3-09
 - f. Audit Report/Management Letter
 - g. Transfer Station – ideas to reduce costs? Sign in sheet? Photo ID? BOH conducting survey.
 - h. Dog Complaint – 11 Hazelton Road / new Non-Criminal Disposition Bylaw awaiting AG approval
 - i. FRCOG Traffic Study – in progress
 - j. ~~Conflict of Interest – April 2nd~~ deadline for on-line training
 - k. Fire Chief – appoint permanent chief (after July 1st?)
 - l. Fire Dept – Administrative Clerk stipend (sign MRT Request form) - Fire Ops or Fire Chief Stipend \$575.50?
 - n. CORI Policy — ?
 - o.
5. Energy
 - a. Awaiting response from Roland Butzke on following:
 - ESCO contract – Exh B Article 2: Perf. Assurance Technical Support Program \$4K (no FY2010 appropriation)
 - ESCO contract – Exh B, Article 3: Maint Tech Support Program \$12,500 (no FY2010 appropriation)
 - b. EECBG PON-ENE-2010 – School Solar Project – contract signed/returned 3/25/10 – approved at STM 5-10-10
 - c. Jack Packard working with Bart Bales to develop bid/RFP package for solar project
6. New Business
 - a. Town Counsel Hearing?
 - b. Yankee Land Committee – survey?
 - c. Town Website News
 - d. US Census – Boundary Validation Program

e. DUA Bill – not enuf \$
f. Gpmt + enuf \$
g. Audit rpt – next mtg
h. 200m Bridge
7. Routine Business
 - a. Minutes: None [Outstanding: Feb 25, Mar 3, 18, 25, 31, Apr 7, 14, 26, May 19, 26, 2010]
 - b. Treasury/Payroll Warrants: TW26 and PW26
 - c. Police Report: None
 - d. Police Monthly Log (Time Log & Warnings/Citations): None
 - e. Building Inspector's Monthly Report: May 2010
 - f. Correspondence
8. Meetings: 1) Next regular meeting Tues, 6/22; 2) Confirm schedule for FY2011; 3) FCSA Qtrly Mtg June 17th, Gfld Grille
9. Adjourn Meeting

Next Town Meetings:

Special

Park Lavatory Facility?
Fire Department – Admin Clerk?

Annual FY2012 (May 2011)

Electric

Questions contact - Lisa Jasinski 508-860-6247

ORDER FOR JOINT OR IDENTICAL POLE LOCATIONS

To the Board of Selectmen of Rowe, Massachusetts

Notice having been given and public hearing held, as provided by law,

IT IS HEREBY ORDERED:

that NATIONAL GRID and VERIZON NEW ENGLAND INC. (Formerly known as NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY) be and they are hereby granted joint or identical locations for and permission to erect and maintain poles and wires to be placed thereon, together with such sustaining and protecting fixtures as said Companies may deem necessary, in the public way or ways hereinafter referred to, as requested in petition of said Companies dated the 28th day of December 2009.

All construction under this order shall be in accordance with the following conditions:-

Poles shall be of sound timber, and reasonable straight, and shall be set substantially at the points indicated upon the plan marked-Middletown Hill Rd, Rowe, Massachusetts.

No. 7986386 Dated 12/28/2009 - filed with this order.

There may be attached to said poles by NATIONAL GRID and Verizon New England Inc. such wires, cables and fixtures as needed in their business and all of said wires and cables shall be placed at a height of not less than twenty (20) feet from the ground.

The following are the public ways or part of ways along which the poles above referred to may be erected, and the number of poles which may be erected thereon under this order:-

Middletown Hill Rd see attached plan

Also for permission to lay and maintain underground laterals, cables and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes.

I hereby certify that the foregoing order was adopted at a meeting of the Board of Selectmen of the City/Town of Rowe, Massachusetts held on the 26th day of May 2010.

Carroll J. Shea
City/Town Clerk.

Town of Rowe, Massachusetts

June 29, 2010

Received and entered in the records of location orders of the City/Town of Rowe
Book 2 Page 10/11

Attest: *Carroll J. Shea*
City/Town Clerk.

I hereby certify that on

M., at

20 , at

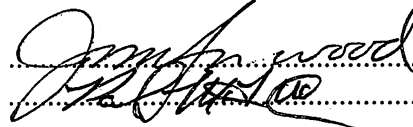
o'clock,

a public hearing was held on the petition of

NATIONAL GRID and VERIZON NEW ENGLAND, INC.

for permission to erect the poles, wires and fixtures described in the order herewith recorded, and that we mailed at least seven days before said hearing a written notice of the time and place of said hearing to each of the owners of real estate (as determined by the last preceding assessment for taxation) along the ways or parts of ways upon which the Company is permitted to erect poles, wires and fixtures under said order. And that there-upon said order was duly adopted.

City/Town Clerk.


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Board of Selectmen of Rowe, Massachusetts

CERTIFICATE

I hereby certify that the foregoing is a true copy of a location order and certificate if hearing with notice adopted by the _____ of the City of _____ Massachusetts, on the _____ day of _____ 20____, and recorded with the records of location orders of said City, Book _____, Page _____. This certified copy is made under the provisions of Chapter 166 of General Laws and any additions thereto or amendments thereof.

Attest:

City Clerk.

Telephone

Questions contact - Lisa Jasinski 508-860-6247

ORDER FOR JOINT OR IDENTICAL POLE LOCATIONS

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I hereby certify that the foregoing order was adopted at a meeting of the Board of Selectmen of the City/Town of Rowe, Massachusetts held on the 26th day of May 2010.

Carrie Y. Silva
City/Town Clerk.

Town of Rowe, Massachusetts

June 29, 2010


Received and entered in the records of location orders of the City/Town of Rowe
Book 2 Page 1011

Attest: Carrie Y. Silva
City/Town Clerk.

I hereby certify that on _____, 20____, at _____ o'clock,
M., at _____ a public hearing was held on the petition of
NATIONAL GRID and VERIZON NEW ENGLAND, INC.

for permission to erect the poles, wires and fixtures described in the order herewith recorded, and that we mailed at least seven days before said hearing a written notice of the time and place of said hearing to each of the owners of real estate (as determined by the last preceding assessment for taxation) along the ways or parts of ways upon which the Company is permitted to erect poles, wires and fixtures under said order. And that there-upon said order was duly adopted.

City/Town Clerk.

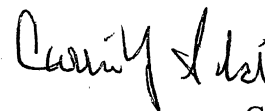

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Board of Selectmen of Rowe, Massachusetts

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Attest:



City Clerk.

Middletown Hill Rd, Rowe

At a point approximately 470' south of the Ford Hill Rd intersection,
Install one (1) JO pole numbered 25 ½ on west side of road.

Abutters:

Terry & Carol Veber
294 Zoar Rd
Rowe Ma 01367

Leann Loomis
63 Middletown Hall Rd
Rowe 01367

Herbert Adams
150 Broad St
Rehoboth MA 02769

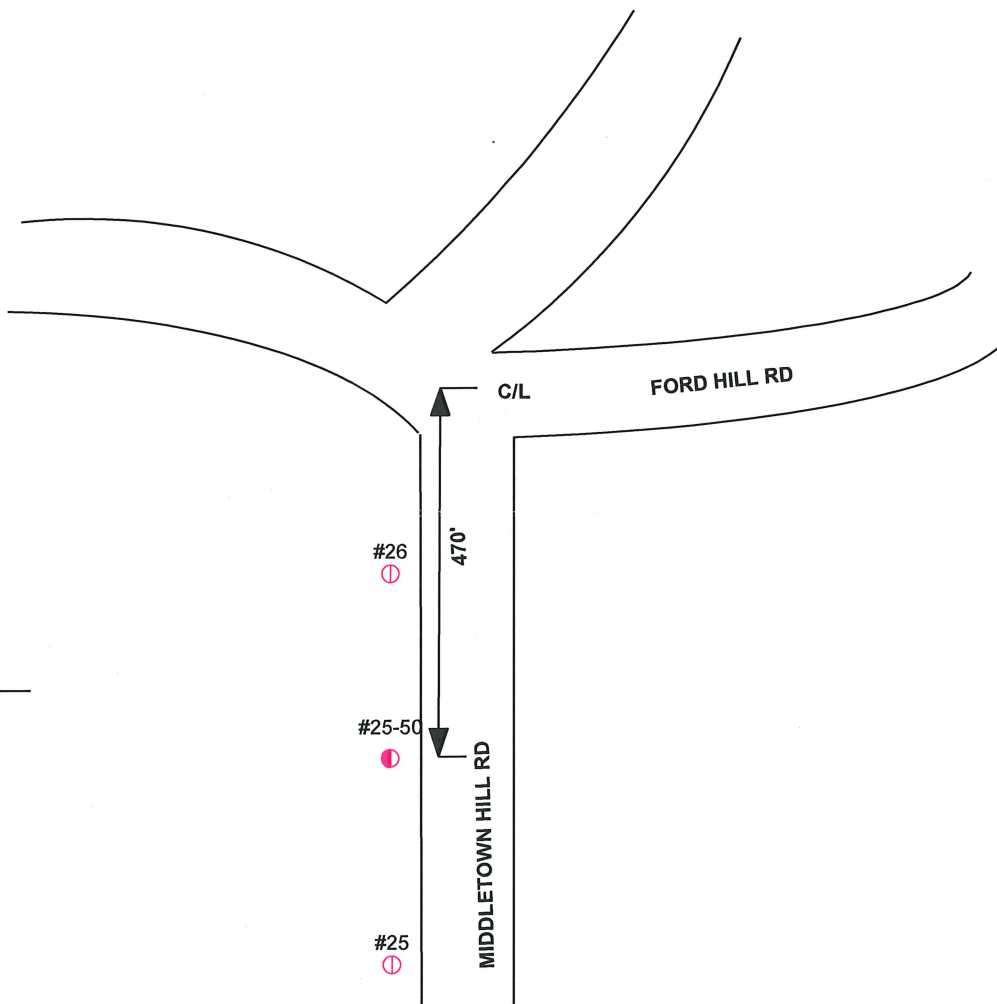
NOTICE TO ABUTTERS

In accordance with the provisions of Section 22, Chapter 166, of the General Laws, you are hereby notified that a **public hearing** will be held at Rowe MA **at 5:15pm**, at the Rowe Town Hall on the **26th day of May, 2010** on the petition of National Grid and Verizon New England to erect poles and wires upon, along, under, or across one of more public ways in the Town of Rowe abutting upon property owned by you.

BOARD OF SELECTMEN
of the Town of Rowe

by 
Town Coordinator

[Note: This hearing had originally been scheduled for Wednesday, May 12, 2010, but was cancelled due to reasons unrelated to this matter.]



JOINT OWNED POLE PETITION

nationalgrid

And

Verizon New England, Inc.

Date: 7986386

Plan Number:

To Accompany Petition Dated:

To The: TOWN Of ROWE

For Proposed: Pole: Location:

Date Of Original Grant:

● Proposed NGRID Pole Locations

○ Existing NGRID Pole Locations

⦿ Proposed J.O. Pole Locations

⊕ Existing J.O. Pole Locations

⊕ Existing Telephone Co. Pole Locations

⊕ Existing NGRID Pole Location To Be Made J.O.

⊗ Existing Pole Locations To Be Removed

DISTANCES ARE APPROXIMATE

BL
Pm III

PETITION FOR JOINT OR IDENTICAL POLE LOCATIONS

Worcester, Massachusetts

To the Board of Selectmen of the Town of Rowe, Massachusetts

Massachusetts Electric Company, and Verizon New England, Inc. request permission to locate poles, wires and fixtures, including the necessary sustaining and protecting fixtures to be owned and used in common by your petitioners, along and across the following public way :

Wherefore they pray that after due notice and hearing as provided by law, they be granted joint or identical locations for and permission to erect and maintain poles and wires, together with such sustaining and protecting fixtures as they may find necessary, said poles to be erected substantially in accordance with the plan filed herewith marked:

Description: Middletown Hill Road: Install 1 JO pole on Middletown Hill Road beginning at a point approximately 470 feet south of the centerline of the intersection of Ford Hill Road.

Massachusetts Electric Company

No. C: 6084..... Dated: December 28, 2009

Also for permission to lay and maintain underground laterals, cables and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes.

Your petitioners agree to reserve space for one cross-arm at a suitable point on each of said poles for the fire, police, telephone, and telegraph signal wires belonging to the municipality and used by it exclusively for municipal purposes.

Massachusetts Electric Company

By:

John Skrzypczak

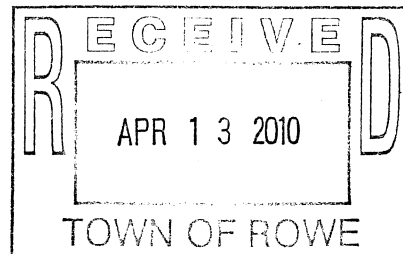
Supervisor of Distribution Design

By:

Right of Way Manager

Verizon New England, Inc.

WR#
- 7986386



Electric

Questions contact - Lisa Jasinski 508-860-6247

ORDER FOR JOINT OR IDENTICAL POLE LOCATIONS

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All construction under this order shall be in accordance with the following conditions:-

Poles shall be of sound timber, and reasonable straight, and shall be set substantially at the points indicated upon the plan marked-Middletown Hill Rd, Rowe, Massachusetts.

No. 7986386 Dated 12/28/2009 - filed with this order.

There may be attached to said poles by NATIONAL GRID and Verizon New England Inc. such wires, cables and fixtures as needed in their business and all of said wires and cables shall be placed at a height of not less than twenty (20) feet from the ground.

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I hereby certify that the foregoing order was adopted at a meeting of the
of the City/Town of _____, Massachusetts held on the _____ day
of _____ 20 _____.

_____, Massachusetts City/Town Clerk . 20

Received and entered in the records of location orders of the City/Town of
Book _____ Page _____

Attest:
City/Town Clerk.

Town

To the Board of Selectmen of Rowe, Massachusetts

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City/Town Clerk . 20

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Book	Page
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City/Town Clerk.

Telephone

Questions contact - Lisa Jasinski 508-860-6247

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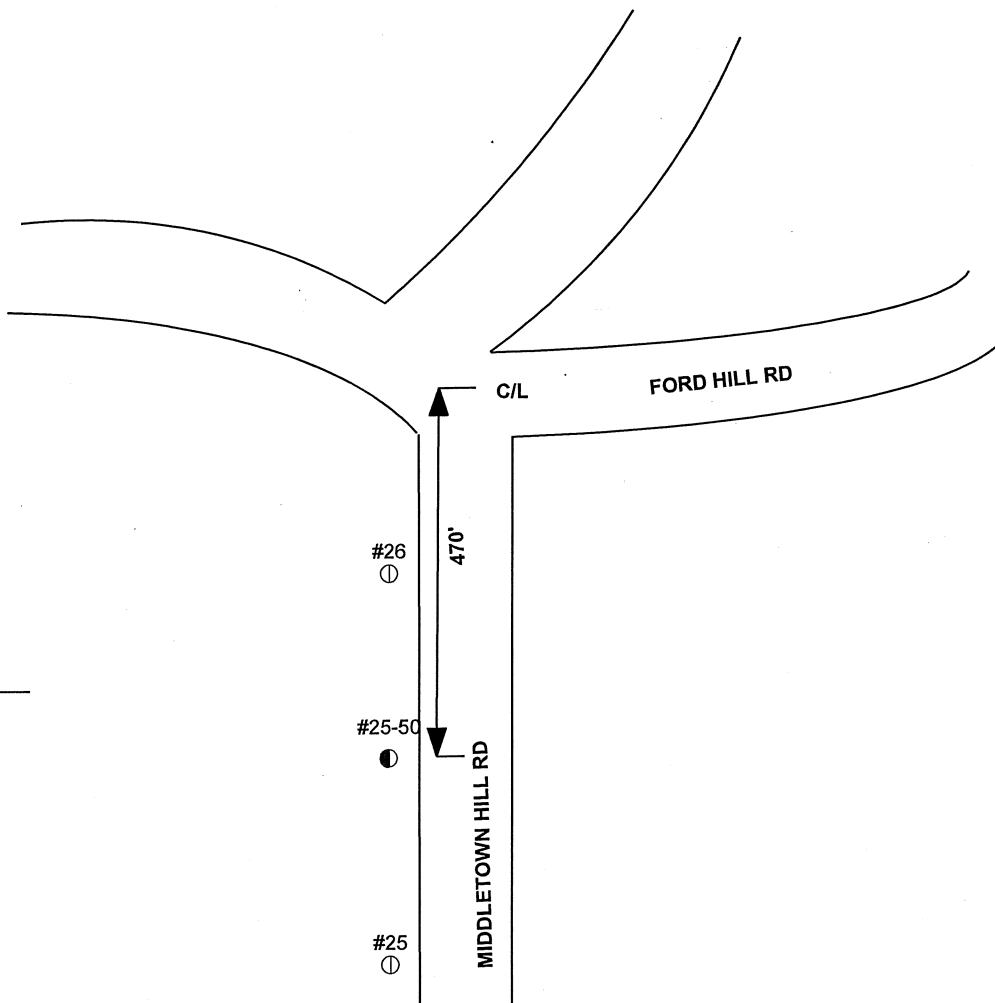
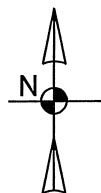
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of _____ 20 _____

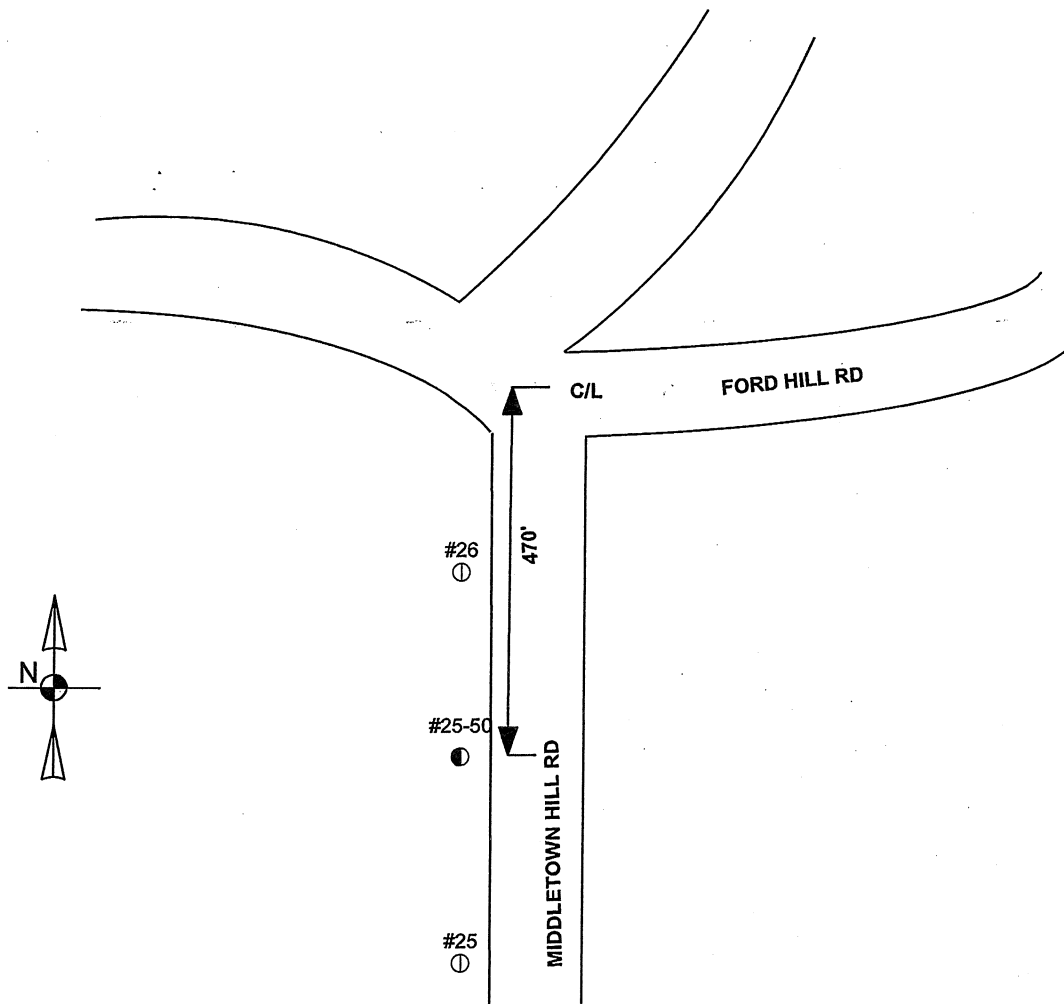
City/Town Clerk .
_____, Massachusetts 20

Received and entered in the records of location orders of the City/Town of
Book _____ Page _____

Attest:
City/Town Clerk.



JOINT OWNED POLE PETITION		nationalgrid And Verizon New England, Inc.	
<input checked="" type="radio"/> Proposed NGRID Pole Locations		Date: 7986386	
<input type="radio"/> Existing NGRID Pole Locations		Plan Number:	
<input checked="" type="radio"/> Proposed J.O. Pole Locations		To Accompany Petition Dated:	
<input type="radio"/> Existing J.O. Pole Locations		To The: TOWN Of ROWE	
<input checked="" type="radio"/> Existing Telephone Co. Pole Locations		For Proposed: Pole: Location:	
<input checked="" type="radio"/> Existing NGRID Pole Location To Be Made J.O.		Date Of Original Grant:	
DISTANCES ARE APPROXIMATE			



JOINT OWNED POLE PETITION

- ☒ Proposed NGRID Pole Locations
- ☐ Existing NGRID Pole Locations
- ☒ Proposed J.O. Pole Locations
- ☐ Existing J.O. Pole Locations
- ☒ Existing Telephone Co. Pole Locations
- ☐ Existing NGRID Pole Location To Be Made J.O.
- ☒ Existing Pole Locations To Be Removed

DISTANCES ARE APPROXIMATE

nationalgrid
And
Verizon New England, Inc.

Date: 7986386

Plan Number:

To Accompany Petition Dated:

To The: TOWN Of ROWE

For Proposed: Pole: Location:

Date Of Original Grant:

Middletown Hill Rd, Rowe

At a point approximately 470' south of the Ford Hill Rd intersection,
Install one (1) JO pole numbered 25 ½ on west side of road.

Abutters:

Terry & Carol Veber
294 Zoar Rd
Rowe Ma 01367

Leann Loomis
63 Middletown Hall Rd
Rowe 01367

Herbert Adams
150 Broad St
Rehoboth MA 02769

NOTICE TO ABUTTERS

In accordance with the provisions of Section 22, Chapter 166, of the General Laws, you are hereby notified that a public hearing will be held at Rowe, Mass., at 5:00 P.M., at Rowe Town Hall on the 12th day of May, 20 10 on the petition of National Grid and Verizon NE to erect poles and wires upon, along, under, or across one or more public ways in the town of Rowe abutting upon property owned by you.

BOARD OF SELECTMEN

of the town of Rowe
by Ellen B. Miller
Secretary

Town of Rowe

P.O. Box 462
Rowe, Massachusetts 01367

Rick Williams & Laurie Pike
25 Middletown Hill Road
Rowe MA 01367

Ellen Miller

From: Smith, Thomas P. [THOMAS.SMITH@us.ngrid.com]
Sent: Wednesday, April 21, 2010 11:49 AM
To: admin@rowe-ma.gov
Subject: FW: Street Lights; petition to locate pole

Hi Ellen,

I'm sorry I haven't gotten back to you sooner about this, but I just returned yesterday from sick leave & I'm working four hour days for the remainder of this week.

I will take care of Item 1 below and have the streetlight on Pole 23, Middletown Hill Rd turned off. I will also change the streetlight from the Adam's (476 Tunnel Rd) to the town account. I'll also get you the streetlight inventory for the town.

With regards to the pole petition hearing, I'm looking to find out what this involves. I am waiting to hear back from our Engineer. My initial sense is that it's to install a mid-span pole on Middletown Hill Rd because the wires are hanging low. I will get this answer for you. If I don't receive it today, I'll have it to you by tomorrow morning.

Regards,

Tom

Thomas P. Smith
Lead Account Representative
Energy Solution Services
National Grid
113.528.7013 (Office)
413.528.7017 (Fax)
927 Main St.
Great Barrington, Ma. 01230
thomas.smith@us.ngrid.com

From: BSO-National Grid Bay State West
Sent: Tuesday, April 20, 2010 3:20 PM
To: Smith, Thomas P.
Cc: BSO-National Grid Bay State West
Subject: FW: Street Lights; petition to locate pole

Hi Tom,

Requests from Town of Rowe, in short:

1. Change of streetlight from resident (Adams) to Town account & request for inventory
2. Reason for new pole on Middletown Hill Road.

Thanks.

Jackie Barrell
Business Specialist-Energy Solutions Services
National Grid
939 Southbridge Street
Worcester, MA 01610
Office (508) 860-6127
Fax (315) 460-8445
jacqueline.barrell@us.ngrid.com

Please consider the environment before printing this email.

From: Shepard, Cynthia L.
Sent: Tuesday, April 20, 2010 2:55 PM
To: BSO-National Grid Bay State West
Subject: FW: Street Lights; petition to locate pole

Hi there - not sure who's handling what anymore (including me someday)! Is this something that we're still doing? If so, could you let me know so I can respond to Ellen. Thanks much !

Cindy Shepard
Sr. Analyst - Energy Solution Services
National Grid
548 Haydenville Road ~ Leeds, MA 01053
Phone: 413.582.7445 Fax: 315.460.8445

Business Efficiency Programs:
<https://www.powerofaction.com/efficiency/>

Large or Small Commercial Projects:
<https://www.nationalgridus.com/masselectric/index.asp>

From: Ellen Miller [mailto:admin@rowe-ma.gov]
Sent: Tuesday, April 20, 2010 2:15 PM
To: Shepard, Cynthia L.
Subject: Street Lights; petition to locate pole

Hi Cindy. Hopefully you can help me on a couple of items.

#1

We have a request from a resident to turn off the streetlight in front of their house. The Selectboard has approved this request. The house (owned by Sean & Leann Loomis) is located at 63 Middletown Hill Road and the streetlight is on Pole 23.

At the same time, the Selectboard has received a request from the residents at 476 Tunnel Road (Paul & Jeanette Adams), that the streetlight across the road from their house be turned over to the town. They've been paying the monthly bill. The streetlight is on Pole 24 at the intersection of Brittingham Hill and Tunnel Roads.

Since Rowe has had a moratorium on adding new streetlights since the energy crises of the '70s, the Selectmen did agree to take over the monthly billing for the Adams' streetlight, since the one at the Loomis' house is being requested to be turned off.

Whom should I talk to to get this done?

Also, can we get a listing of where all the streetlights are in Rowe?

#2

Also, received a petition for identical pole location for one (1) new pole on Middletown Hill Road. It's from John Skrzypczak, Supv of Distribution Design (Worcester office). Can you give me a phone # or email address for him, or for Fortune Champlin at North Andover office? The Selectmen would like to know reason for new pole. [Perhaps line is too low in that area.]

Thanks for your help.

*Ellen B Miller, Rowe Town Coordinator
321 Zoar Rd, PO Box 462, Rowe MA 01367
Ph 413-339-9944 - Fx 413-339-5316*

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Ellen Miller

From: Ellen Miller [admin@rowe-ma.gov]
Sent: Tuesday, May 11, 2010 1:09 PM
To: 'Smith, Thomas P.'
Cc: 'Shepard, Cynthia L.'
Subject: Pole Hearing

Hi Tom. The pole hearing for tomorrow evening needs to be postponed. We only have two Selectmen, and one had a medical emergency this week, so meeting is cancelled. Will advise new date at a later time. Please pass information on to appropriate people.

Thank you.

*Ellen B Miller, Rowe Town Coordinator
321 Zoar Rd, PO Box 462, Rowe MA 01367
Ph 413-339-9944 - Fx 413-339-5316*

 *Please consider the environment before printing this email.*

From: Smith, Thomas P. [mailto:THOMAS.SMITH@us.ngrid.com]
Sent: Friday, April 23, 2010 11:56 AM
To: Ellen Miller
Subject: RE: petition to locate pole

Hi Ellen,

I talked with our Forestry person, Lance Wade, this morning. He said he does not have any orders to do any tree work pertaining to this proposed pole installation. I also checked the work request & saw no requirements for any tree trimming or cutting here. Based on this, I will say no.

Have a wonderful weekend.

Tom

Thomas P. Smith
Lead Account Representative
Energy Solution Services
National Grid
413.528.7013 (Office)
413.528.7017 (Fax)
927 Main St.
Great Barrington, Ma. 01230
thomas.smith@us.ngrid.com

From: Ellen Miller [mailto:admin@rowe-ma.gov]
Sent: Thursday, April 22, 2010 11:33 AM
To: Smith, Thomas P.
Subject: RE: petition to locate pole

Thanks Tom.

Ellen B Miller, Rowe Town Coordinator
321 Zoar Rd, PO Box 462, Rowe MA 01367
Ph 413-339-9944 - Fx 413-339-5316

 Please consider the environment before printing this email.

From: Smith, Thomas P. [mailto:THOMAS.SMITH@us.ngrid.com]
Sent: Thursday, April 22, 2010 11:39 AM
To: Ellen Miller
Subject: RE: petition to locate pole

Hi Ellen....I don't know about this at the moment. I'll contact our Forestry guy to see if any tree trimming or cutting is needed. He's out in the field, so I may not be able to reach him today, but I'll have an answer for you by tomorrow morning.

Thomas P. Smith
Lead Account Representative
Energy Solution Services
National Grid
413.528.7013 (Office)
413.528.7017 (Fax)
927 Main St.
Great Barrington, Ma. 01230
thomas.smith@us.ngrid.com

From: Ellen Miller [mailto:admin@rowe-ma.gov]
Sent: Thursday, April 22, 2010 11:15 AM
To: Smith, Thomas P.
Subject: petition to locate pole

Hi Tom. Thanks for info. Do you know if pole installation will require cutting/trimming of trees?

Ellen B Miller, Rowe Town Coordinator
321 Zoar Rd, PO Box 462, Rowe MA 01367
Ph 413-339-9944 - Fx 413-339-5316

 Please consider the environment before printing this email.

From: Smith, Thomas P. [mailto:THOMAS.SMITH@us.ngrid.com]
Sent: Thursday, April 22, 2010 10:49 AM
To: Smith, Thomas P.; admin@rowe-ma.gov
Subject: RE: Street Lights; petition to locate pole

Good Morning Ellen,

Just to confirm, the pole petition involves installing a mid-span on Middletown Hill Rd to space the poles properly. This proposed pole will be located between Poles 25 & 26. This will get our, and the Telephone Co., wires raised. This is in association for a request for electric service on this road.

Also, I have put in an internal request to obtain the town's lighting inventory. I will forward it to you once I receive it.

If you have any questions, please contact me.

Best regards,

Tom

Thomas P. Smith
Lead Account Representative
Energy Solution Services
National Grid
413.528.7013 (Office)
413.528.7017 (Fax)
927 Main St.
Great Barrington, Ma. 01230
thomas.smith@us.ngrid.com

From: Smith, Thomas P.
Sent: Wednesday, April 21, 2010 11:49 AM
To: 'admin@rowe-ma.gov'
Subject: FW: Street Lights; petition to locate pole

Hi Ellen,

I'm sorry I haven't gotten back to you sooner about this, but I just returned yesterday from sick leave & I'm working four hour days for the remainder of this week.

I will take care of Item 1 below and have the streetlight on Pole 23, Middletown Hill Rd turned off. I will also change the streetlight from the Adam's (476 Tunnel Rd) to the town account. I'll also get you the streetlight inventory for the town.

With regards to the pole petition hearing, I'm looking to find out what this involves. I am waiting to hear back from our Engineer. My initial sense is that it's to install a mid-span pole on Middletown Hill Rd because the wires are hanging low. I will get this answer for you. If I don't receive it today, I'll have it to you by tomorrow morning.

Regards,

Tom

Thomas P. Smith
Lead Account Representative
Energy Solution Services
National Grid
413.528.7013 (Office)
413.528.7017 (Fax)
927 Main St.
Great Barrington, Ma. 01230
thomas.smith@us.ngrid.com

From: BSO-National Grid Bay State West
Sent: Tuesday, April 20, 2010 3:20 PM
To: Smith, Thomas P.
Cc: BSO-National Grid Bay State West
Subject: FW: Street Lights; petition to locate pole

Hi Tom,

Requests from Town of Rowe, in short:

1. Change of streetlight from resident (Adams) to Town account & request for inventory
2. Reason for new pole on Middletown Hill Road.

Thanks.

Jackie Barrell
Business Specialist-Energy Solutions Services
National Grid
939 Southbridge Street
Worcester, MA 01610
Office (508) 860-6127
Fax (315) 460-8445
jacqueline.barrell@us.ngrid.com

Please consider the environment before printing this email.

From: Shepard, Cynthia L.
Sent: Tuesday, April 20, 2010 2:55 PM
To: BSO-National Grid Bay State West
Subject: FW: Street Lights; petition to locate pole

Hi there - not sure who's handling what anymore (including me someday)! Is this something that we're still doing? If so, could you let me know so I can respond to Ellen. Thanks much !

Cindy Shepard
Sr. Analyst - Energy Solution Services
National Grid
548 Haydenville Road ~ Leeds, MA 01053
Phone: 413.582.7445 Fax: 315.460.8445

Business Efficiency Programs:
<https://www.powerofaction.com/efficiency/>

Large or Small Commercial Projects:
<https://www.nationalgridus.com/masselectric/index.asp>

From: Ellen Miller [mailto:admin@rowe-ma.gov]
Sent: Tuesday, April 20, 2010 2:15 PM
To: Shepard, Cynthia L.
Subject: Street Lights; petition to locate pole

Hi Cindy. Hopefully you can help me on a couple of items.

#1

We have a request from a resident to turn off the streetlight in front of their house. The Selectboard has approved this request. The house (owned by Sean & Leann Loomis) is located at 63 Middletown Hill Road and the streetlight is on Pole 23.

At the same time, the Selectboard has received a request from the residents at 476 Tunnel Road (Paul & Jeanette Adams), that the streetlight across the road from their house be turned over to the town. They've been paying the monthly bill. The streetlight is on Pole 24 at the intersection of Brittingham Hill and Tunnel Roads.

Since Rowe has had a moratorium on adding new streetlights since the energy crises of the '70s, the Selectmen did agree to take over the monthly billing for the Adams' streetlight, since the one at the Loomis' house is being requested to be turned off.

Whom should I talk to to get this done?

Also, can we get a listing of where all the streetlights are in Rowe?

#2

Also, received a petition for identical pole location for one (1) new pole on Middletown Hill Road. It's from John Skrzypczak, Supv of Distribution Design (Worcester office). Can you give me a phone # or email address for him, or for Fortune Champlin at North Andover office? The Selectmen would like to know reason for new pole. [Perhaps line is too low in that area.]

Thanks for your help.

*Ellen B Miller, Rowe Town Coordinator
321 Zoar Rd, PO Box 462, Rowe MA 01367
Ph 413-339-9944 - Fx 413-339-5316*

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Sandra Hanks
Board Chair

Herbert Sanderson
Board Vice Chairman

Paul Mokrzecki
Appointed Board
Member

FRANKLIN REGIONAL RETIREMENT SYSTEM
278 MAIN STREET, SUITE 311
GREENFIELD, MASSACHUSETTS 01301-3230

David Gendron
Elected Board Member

Mary Stokarski
Elected Board Member

Dale Kowacki
Executive Director

April 13, 2010

Mr. Edwin L. May
68 Cross Road
Rowe, Ma 01367

Dear Mr. May:

You became a member of the Franklin Regional Retirement System in 1989. At that time, and probably prior to 1989, you were a member of the Town of Rowe call fire department so each time you were paid, 8% was deducted and sent to this retirement system. Massachusetts retirement systems follow M.G.L. Chapter 32. Section 5 of this chapter requires uniformed public safety officers to retire no later than the last day of the month in which they turn 65.

Our records show that you will be 65 years old on May 26, 2010. I have contacted the Treasurer for the Town of Rowe to inform her that deductions from pay should be discontinued as of the end of May 2010. A member must have a minimum of ten years of service to receive a retirement benefit from this system. Call firefighters are given prorated creditable service based on the number of hours worked. As of March 31, 2010 you have accrued 4 years, 4 months, 7 days creditable service.

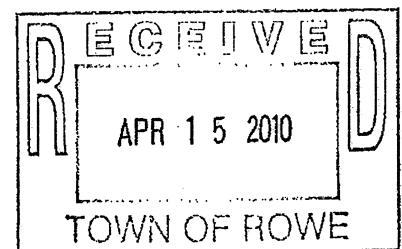
At this time, I cannot offer you a retirement benefit; however, you do have withdrawal options that I would be happy to discuss with you at your convenience. I have contacted the town Treasurer and asked her to process the required 'Notice of Separation' form.

Please contact me at 774-4837, extension 3, if you have any questions or concerns about this letter.

Sincerely,

Deborah A. Frentzos
Deborah A. Frentzos
Member Services Accountant

Cc: Treasurer, Town of Rowe
Fire Chief, Town of Rowe



From: Joseph S. Fair [mailto:JFair@k-plaw.com]
Sent: Monday, May 03, 2010 10:14 AM
To: Ellen Miller
Cc: Janet H. Pumphrey
Subject: RE: Fire Chief

BL
PM III

Ellen:

The maximum retirement age issue for uniformed police officers and firefighters flows from a determination that age is a bona fide occupational qualification for such positions. In other words, it has been determined that an individual has to be less than 65 in order to be able to fully perform the essential functions of the position. For this reason, allowing an individual to remain in such a position after reaching the age of 65 can pose liability issues for a town in the face of this determination and should be carefully considered, particularly in a smaller department where the Fire Chief is usually a "working Chief" and is expected to respond to emergency calls for service just like the other firefighters in the department.

If the Town nonetheless wished to allow the Fire Chief to remain in his position notwithstanding his reaching the maximum age, special legislation would be required in my opinion. Given that you have indicated that he will turn 65 later this month, however, this does not appear to be a real option from a practical standpoint because it is not likely that the legislation could be filed and acted upon prior to the end of the month.

Alternatively, the Town could continue to employ him in a non-firefighter position that is not subject to the maximum retirement age. Based on the email exchange between the Town and the Retirement Board that you provided me below, it appears that the Retirement Board would not have an issue with the Chief continuing to remain in the Town's employ as Emergency Management Director since that position is not included as a Group 4 position for retirement purposes. However, the Chief would still be required to retire from his Fire Chief position and once retired, would be subject in his Emergency Management Director position to the maximum earning limitations that are applicable to retirees in my view.

Please feel free to contact me if you have any questions. Thank you.

Joe

Joseph S. Fair, Esq.
Kopelman and Paige, P.C.
101 Arch Street, 12th Floor
Boston, MA 02110
(617)556-0007
(617)654-1735 (fax)

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From: Ellen Miller [mailto:admin@rowe-ma.gov]
Sent: Friday, April 30, 2010 3:46 PM
To: Joseph S. Fair
Subject: FW: Fire Chief

Hi Joe. I sent email below to Janet Pumphrey, but haven't heard back. She's probably on vacation. Can you help me out on Fire Chief matter below?

Thanks,

Ellen B Miller, Rowe Town Coordinator
21 Zoar Rd, PO Box 462, Rowe MA 01367
Ph 413-339-9944 - Fx 413-339-5316

 Please consider the environment before printing this email.

From: Ellen Miller [mailto:admin@rowe-ma.gov]
Sent: Tuesday, April 27, 2010 12:17 PM
To: 'Janet H. Pumphrey'
Subject: FW: Fire Chief

Hi Janet. We need some help re our Fire Chief Ed May, who is turning age 65 next month (May 26th). He received letter (attached) from FRRS (Franklin Regional Retirement System) stating that his retirement deductions need to stop at end of May. Copy of letter went to our Treasurer and me (payroll dept).

I made copy of letter for Bill Loomis, BOS Chair. He spoke with Ed, and Ed told him that he would like to stay in position until May 2011. I posed several questions to Dale Kowacki, Exec Dir of FRRS, in emails below. Bottom line is that Dale says he cannot stay in any uniformed public safety position after May 31, 2010, even if he volunteers; i.e., no stipend. [I've also attached an "age 65 handout" that Dale sent me.]

The Selectboard would like you to research matter to see what our options are. They would like him to be able to stay in position for another year, if it's legal.

Thank you Janet.

*Ellen B Miller, Rowe Town Coordinator/Accountant
321 Zoar Rd, PO Box 462, Rowe MA 01367
Ph 413-339-9944 - Fx 413-339-5316*

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From: Dale Kowacki [mailto:ExecutiveDirector@franklinregionalretirement.com]
Sent: Friday, April 23, 2010 9:02 AM
To: Ellen Miller
Subject: RE: Fire Chief

We haven't heard from anyone but you on this issue, so I guess that would make you the point person. I assumed that, and therefore also assume you will be reporting what you have learned back to all parties and they will act accordingly. Does that work for you? Certainly Bill and Ed are free to contact me directly if they have more questions.

Dale

From: Ellen Miller [mailto:admin@rowe-ma.gov]
Sent: Friday, April 23, 2010 7:32 AM
To: Dale Kowacki
Subject: RE: Fire Chief

Has Ed May contacted anyone at FRRS re the letter you sent? I haven't spoken to him, but Bill Loomis (BOS chair) has, at which time Ed told Bill that he wanted to stay on as Chief until next May (2011). I told Bill I would get more information...hence, my questions.

*Ellen B Miller, Rowe Town Coordinator
321 Zoar Rd, PO Box 462, Rowe MA 01367
Ph 413-339-9944 - Fx 413-339-5316*

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From: Dale Kowacki [mailto:ExecutiveDirector@franklinregionalretirement.com]
Sent: Thursday, April 22, 2010 3:48 PM
To: Ellen Miller
Subject: RE: Fire Chief

Hi Ellen,

It doesn't matter if it is voluntary, and although in some ways it might be more important, the law doesn't make a distinction.

Emergency Management Director may be thought of as "public safety" but it is not listed in the law as a group 4 position, so no, it is not restricted.

DPW workers are in group 1 and therefore not subject to the age 65 requirement. They would however be subject to restrictions on earnings and hours.

Keep the questions coming.

Dale

From: Ellen Miller [mailto:admin@rowe-ma.gov]
Sent: Thursday, April 22, 2010 12:42 PM
To: Dale Kowacki
Subject: RE: Fire Chief

Sorry Dale...more questions.

Does it matter that this is a Voluntary Fire Department?

Is Emergency Management Director considered a public safety position? He doesn't wear a uniform for that job.

And is this only specific to public safety; i.e., can a DPW worker retire and come back and work for the DPW?

*Ellen B Miller, Rowe Town Coordinator
321 Zoar Rd, PO Box 462, Rowe MA 01367
Ph 413-339-9944 - Fx 413-339-5316*

 *Please consider the environment before printing this email.*

From: Dale Kowacki [mailto:ExecutiveDirector@franklinregionalretirement.com]
Sent: Thursday, April 22, 2010 1:42 PM
To: Ellen Miller
Subject: FW: Fire Chief

Hi Ellen,

The law is pretty specific in that he must leave the position, and not just stop paying into retirement. It also means he can't work in another public safety position. It does not, however, prevent him from working in a non public safety position.

See the attached copy of the pertinent sections of law. [See *Age 65 Handout* on last page.]

Dale

Dale Kowacki, Executive Director
Franklin Regional Retirement System
278 Main Street, Suite 311
Greenfield, MA 01301

(413) 774-4837 extension 4
ExecutiveDirector@FranklinRegionalRetirement.com

From: Deborah Frentzos
Sent: Wednesday, April 21, 2010 1:19 PM
To: Dale Kowacki
Subject: FW: Fire Chief

Deborah A. Frentzos
Member Services Accountant
Franklin Regional Retirement System
(413) 774-4837, Extension 3

From: Ellen Miller [mailto:admin@rowe-ma.gov]
Sent: Wednesday, April 21, 2010 7:43 AM
To: Deborah Frentzos
Subject: Fire Chief

Hi Deb. Our Fire Chief, Ed May, rec'd letter from FRRS stating that he needs to retire (I'm paraphrasing here, as I don't have letter in front of me), as he turns 65 next month. He indicated to Selectmen that he would like to stay on one more year ('til May 2011). I understand he does have to cease paying into FRRS as of 5-31-10, but can he still stay in the position and continue to receive his \$6900 stipend? The Selectmen are in favor of him staying on for another year, if it is doable.

*Ellen B Miller, Rowe Town Coordinator
321 Zoar Rd, PO Box 462, Rowe MA 01367
Ph 413-339-9944 - Fx 413-339-5316*

 *Please consider the environment before printing this email.*

Age 65 Law Handout

MGL Chapter 32, Section 5. (1) Conditions for Allowance. — (a) Any member in service or any member inactive on authorized leave of absence classified in either Group 1 or Group 2 or Group 4 who has attained age fifty-five, and upon his written application on a prescribed form filed with the board and with respective employer, or upon such application by the head of his department after a hearing, if requested, as provided for in subdivision (1) of section sixteen and subject to the conditions set forth in said section and in this section shall be retired for superannuation as of a date which shall be specified in such application and which shall be subsequent to but not more than four months after filing of such application. ***Any member in service who has attained maximum age as defined in section 1 shall be so retired for superannuation upon attaining such age*** or shall be retired within 90 days after the date the system becomes operative if such maximum age was attained prior thereto or is attained within 90 days thereafter.

MGL Chapter 32, Section 1 – Definitions:

"Maximum age", the age on the last day of the month in which any member classified in *Group 3*, as provided for in paragraph (g) of subdivision (2) of section 3, attains age 55, or if classified in any of the following occupations or position classifications, for which the personnel administrator has determined, pursuant to section 2 of chapter 415 of the acts of 1987, that age is a bona fide occupational qualification, ***the last day of the month that a member in any such occupation or position classifications attains age 65: a uniformed member of a paid fire department or uniformed member of a police department***, or of the police force of the Massachusetts Bay Transportation Authority, or a member of the uniformed branch of the department of fisheries and wildlife as determined by the personnel administrator, or a correctional officer or a permanent crash crewman, crash boatman, fire control man, or assistant fire control man employed at the General Edward Lawrence Logan International Airport.

Chapter 415 of the Acts of 1987

SECTION 2. Notwithstanding the provisions of section one, ***no member in the occupation or position classification of uniformed member of a paid fire department or uniformed member of a police department***, or of the police force of the metropolitan district commission, or of the police force of the Massachusetts Bay Transportation Authority, or the capitol police, or member of the state police detectives appointed under section six of chapter twenty-two, or member of the uniformed branch of the registry of motor vehicles or department of fisheries and wildlife, as determined by the personnel administrator, or correctional officer, or permanent crash crewman, crash boatman, fire controlman, or assistant fire controlman employed at the General Edward Lawrence Logan International Airport, ***shall continue in service beyond the last day of the month in which he attains the age of sixty-five*** unless the personnel administrator, after consultation with the secretary of the executive office of public safety, shall have determined by regulation that age is not a reasonably necessary bona fide occupational qualification for service in said occupations or position classifications. For the purpose of promulgating the regulations provided for in this act, the personnel administrator shall conduct a study, to be completed not later than one year from the effective date of this act, to determine whether age continues to be a reasonably necessary bona fide occupational qualification for service in said occupations or position classifications. Upon completion of said study, the personnel administrator shall conduct a further study to determine whether age is a reasonably necessary bona fide occupational qualification for service in any other occupations or position classifications set forth in Group 2 or Group 4 of clause (g) of subdivision (2) of section three of chapter thirty-two of the General Laws.



KOPELMAN AND PAIGE, P.C.
The Leader in Municipal Law

101 Arch Street
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F: 617.654.1735
www.k-plaw.com

May 21, 2010

Joel B. Bard
jbard@k-plaw.com

BL
Pm III
JW

Planning Board
Rowe Town Hall
P.O. Box 462
321 Zoar Road
Rowe, MA 01367

Re: Land Use Services, Green Communities Act

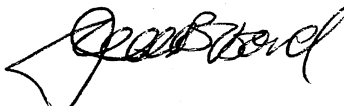
Dear Members of the Planning Board:

I understand that you have some questions about the State's Green Communities program. We have assisted several of our client towns in their efforts to be designated "Green Communities" by the state. We have also worked with our clients in preparing applications for grant funds under the state program. I have enclosed a description of our "Green Communities and Alternative Energy Practice."

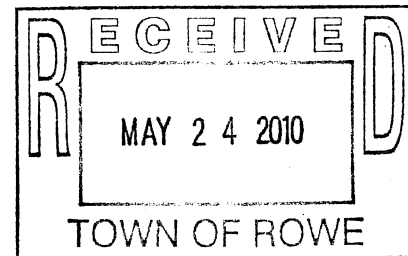
I have also taken the liberty to enclose a description of our Land Use Practice. I and other attorneys in the office have many years of experience working with planning boards, zoning boards, conservation commissions, boards of health and other land use boards. From the beginning of my practice as a lawyer, I have concentrated in land-use law. Since joining Kopelman and Paige in 1987, I have been particularly active representing towns in Franklin, Hampshire and Berkshire counties (e.g., Colrain, Leyden, Charlemont, Buckland, Clarksburg, Florida and Williamstown, to name a few).

I would be pleased to work with the Rowe Planning Board.

Very truly yours,


Joel B. Bard

JBB/rlf
Enc.
cc: Board of Selectmen
400882/ROWE/0001





KOPELMAN AND PAIGE

The Leader in Public Sector Law

Land Use Practice

Our land use attorneys are expert in all aspects of land use law, including zoning, subdivision control, historic districts, affordable housing (G.L. c. 40B & 40R), expedited permitting (G.L. c.43D), Title 5, and wetlands protection. The Land Use Practice group provides a full range of legal services to planning boards, zoning boards of appeal, building inspectors, boards of health, and conservation commissions. All of the attorneys in the Land Use Practice group possess considerable and relevant practical experience. Some have served as town planners, others as members of planning boards, zoning boards of appeal, and conservation commissions. Due to the complexity of land development issues, we frequently team with the firm's attorneys in other, related practice areas, including litigation, real estate, public contracts and tax title, as well as with outside land use planning and development consultants to combine relevant skills and expertise to better meet client needs. Both counseling and litigation are among the services we provide in the land use area.

Counsel

The Land Use Practice attorneys provide clients with practical and effective legal counseling in a number of ways, including through formal written opinions and informal guidance, and through expert negotiation of land development proposals to achieve a balance between public and private interests. We regularly advise clients on a wide variety of issues, such as:

- Code Enforcement of State and Local rules and regulations
- Comprehensive Permits – G.L. c.40B
- Health and Environmental Permitting and Regulation
- Historic Preservation
- Earth Removal Permitting and Regulation
- Legislative Drafting
 - Local law
 - General Bylaws/Ordinances
 - Specialized and innovative local laws, e.g. – Demolition Delay, Dark Sky Preservation, Waterfowl Control, Inclusionary Zoning , Signs
 - Zoning Bylaws/Ordinances
 - State Special Acts
- Subdivision Control Law
 - Approval Not Required Process
 - Subdivision Plan Review
 - Subdivision Regulations
- Wetlands, State and Local
 - Appeals
 - Enforcement
 - Project review



- Zoning – G.L. c.40A
 - Adoption and Amendment
 - Enforcement
 - Interpretation
 - Exemptions, Exception and Grandfathering
 - Site Plan Review
 - Special Permits, Variances
- Smart Growth Initiatives – G.L. c.40R
- Expedited Permitting under G.L. c. 43D

Litigation

We strive to resolve disputes through creative negotiation and without litigation, when that can be done without sacrifice to the letter and spirit of the applicable laws and our clients' objectives. When litigation becomes necessary, however, the firm's clients have the advantage of representation by highly experienced and effective litigators who routinely practice at all levels of state and federal courts and administrative agencies. Our record of trial and appellate victories on issues of concern to land use boards and officials throughout the Commonwealth is unmatched. Sample victories on behalf of client communities include:

Zoning and Subdivision Control

- Cornell v. Dracut Zoning Board of Appeals, 453 Mass. 888 (2009)
We successfully filed an amicus brief on behalf of the American Planning Association that resulted in a major victory for municipalities with issuance of an Supreme Judicial Court decision confirming that a variance does not take effect if it is not timely recorded and that actions taken by a developer to obtain administrative approvals that do not rely on the variance relief are not sufficient to constitute an "exercise" of the variance.
- Kitner v. Winchendon Zoning Board of Appeals, 2010 WL 58919 (2010)
In a significant victory for Planning Boards, the Land Court affirmed that a waiver granted during review of a preliminary subdivision plan was not binding upon a Planning Board during review of a definitive subdivision plan where the property owner changed the plan.
- Morgan v. Town of Harwich and Harwich Planning Board, 74 Mass.App.Ct. 1115 (2009)
In the Appeals Court, we successfully defended against an action seeking to compel a municipality to return almost twenty years of property taxes, in which the plaintiffs argued that an increased assessment, made in 1988 based upon an ANR endorsement, was improper on the theory that the ANR endorsement was a nullity and, therefore, void because the heirs to the property did not sign the ANR application. We successfully argued that the action was barred by the applicable statutes of limitation.
- N. Chelmsford Water District v. Dept of Public Works, Zoning Board of Appeals 75 Mass.App.Ct. 1113 (2009). In this case, the Appeals Court ruled that the plaintiff could not bring a request for zoning enforcement where the plaintiff had failed to appeal from the issuance of a building permit. The Court held that an appeal from the issuance of the building permit had to have been filed within thirty days for the request for zoning enforcement to be viable.



- Regis College v. Town of Weston, 2009 WL 2371896 (2009)
We obtained a major victory regarding a proposal to construct a 362-unit luxury housing development in a single-family residential district, based upon a claim that the project qualified for protection as an educational use under the Dover Amendment. The Land Court entered judgment for the Town, ruling that the educational component of the project would not be the predominant use and so the educational use protection does not apply.
- Town of Pembroke v. Foundation for Humanity, 75 Mass.App.Ct. 1111 (2009)
The Massachusetts Appeals Court upheld a Superior Court judgment in favor of the Town, finding that the six-year statute of limitations in the state Zoning Act did not bar the Town from enforcing its Zoning Bylaws prohibiting multi-family dwellings where the property owner received building permits for single-family dwelling units on the same property. The case establishes that strategically inaccurate descriptions in building permit applications cannot later be used to bar zoning enforcement.
- Town of Uxbridge v. Griff, 68 Mass. App. Ct. 174 (2007), finding the operation of a motocross practice track to be in violation of the Uxbridge Zoning by-law use restrictions and upholding order to cease operations.
- Chiancola v. Board of Appeals of Rockport, 65 Mass. App. Ct. 636, further appellate review denied, 446 Mass. 1107 (2006) upholding denial of variance to construct driveway to serve as access to lot lacking usable frontage, and holding that the denial of the variance was not a regulatory taking of property.
- Amberwood Development Corp. v. Board of Appeals of Boxford, 65 Mass. App. Ct. 205 (2005). Appeals Court held that a property owner cannot prevail in a G.L. c.240 §14A challenge to the validity of a local by-law or ordinance without demonstrating that the application of such by-law or ordinance does not serve the purpose for which it was created, and that the property owner will be injured by the application of the bylaw.
- Town of Shirley v. Puma, (Land Court Misc. Case No. 2007-336558). The Land Court issued a Preliminary Injunction prohibiting the operation of a landscaping business on a parcel located in a residential zoning district.
- Woodhouse, et al. v. Town of Lakeville Planning Board (Land Court Misc. Case No. 324954). Land Court upheld conditions of subdivision approval imposed by Planning Board and ruled that the Board had not abused its discretion in refusing to waive its dead-end street length regulation.
- Miller v. Town of Douglas Zoning Board of Appeals (Worcester Superior Court, C.A. No. 05-1587). Court upheld zoning enforcement order to tear down illegally constructed garage addition and fencing.
- Town of Plympton v. Newcomb (Plymouth Superior Court C.A. No. 07-01670). Court ordered immediate cessation of sawmill, gasoline storage and refueling uses conducted in violation of the zoning by-law, and the removal of a structure built without a building permit.
- Keilty v. Georgetown Planning Board, (Essex Superior Court, C.A. No. 05-01930). Summary Judgment affirming Planning Board's denial of ANR endorsement and ordering conveyance of lot to Town as required under condition imposed under previously unappealed subdivision decision.



Comprehensive Permits/Enforcement

- Town of Boxborough v. Boxborough Meadows, LLC. In settlement of first-ever action by municipality to enforce the profit limitation imposed upon recipients of comprehensive permits for affordable housing projects under G.L.c.40B, developer agreed to pay \$1.2 million to Town, to be used for affordable housing purposes.
- Town of Wareham v. Buzzards Bay Golf, Inc. and Onset Partners, LLC. (2005). Land Court recognized the Town's rights to enforce publicly held restrictions on the land in question and required the withdrawal of a controversial comprehensive permit application for the land.
- Town of Groton v. Housing Appeals Committee, et al. (Suffolk Superior Court C.A. No. 2006-03793). The Superior Court ruled that a decision by the Housing Appeals Committee presiding officer to annul and modify certain comprehensive permit conditions was beyond his authority and invalid.
- Board of Trustees of the Sea Grass Village Condominium v. James S. Bergquist et al (Appellate Division, C.A. No. No. 08-ADMS-40029) The Appellate Division of the District Court upheld the affordability requirements of the comprehensive permit where condominium trustees tried to sell a unit at market price after foreclosing on it due to the owner's failure to pay fines associated with violations of condominium rules. The condominium trustees argued that that under the Condominium Statute (G.L. c. 183A), condominium fees had priority over all liens and encumbrances except real estate taxes and a first mortgage and that the restrictions set forth in the permit, the regulatory agreement and the deed rider were not "encumbrances." The Appellate Division, however, agreed with K&P's argument that the restrictions of the comprehensive permit were encumbrances.

Wetlands Protection and Board of Health Enforcement

- FIC Homes of Blackstone v. Conservation Commission of Blackstone, 41 Mass. App. Ct. 681, rev. den. 424 Mass. 1104 (1996). In this widely cited case, K&P defended the defendant Conservation Commission against a challenge to its decision denying a wetlands order of conditions and successfully argued that the denial of the landowner's right to build on one lot in a subdivision was not a regulatory taking under the U.S. Constitution.
- T.D.J. Corporation v. Conservation Commission of North Andover, 36 Mass. App. Ct. 124, rev. den., 418 Mass. 1103 (1994). Also widely cited, this case established that the Conservation Commission had the authority under a town by-law to regulate activities in a wetlands buffer zone and to protect wetlands interests in addition to those in state law.
- Water Department of Fairhaven v. Department of Environmental Protection, 2010 WL 104677 (2010). In this landmark victory for municipalities, the Supreme Judicial Court limited the authority of the Department of Environmental Protection (DEP) to impose restrictions on municipal water suppliers. K&P successfully represented five municipalities in challenging DEP's authority to impose conditions upon public water suppliers' use of water under registration statements issued in accordance with the Water Management Act that would effectively have reduced the amount of water these municipalities could draw from water suppliers.



- Neve v. Conservation Commission of Boxford, 63 Mass. App. Ct. 1115 (2005). Appeals Court upheld order of conditions denying request to extend driveway into wetland buffer area designated as “no-disturb zone” under Town’s general wetlands protection by-law.
- Biotti v. Boxborough Conservation Commission, Middlesex Superior Court C.A. No. 04-1017) Judgment dismissing appeal of denial of an order of conditions under the Town’s General Wetlands By-law for the construction of dwelling in the resources area buffer.
- New Ventures v. City of Newburyport (Essex Superior Court C.A. Nos. 2006-0001 and 2006-00056) Judgment upholding Board of Health cease and desist order and noisome trade assignment regarding operations at a landfill.



KOPELMAN AND PAIGE

The Leader in Public Sector Law

Green Communities and Alternative Energy Practice

Kopelman and Paige has been in the forefront of providing a wide range of legal services to our municipal clients in the areas of energy management, Green Communities initiatives, alternative energy solutions, as well as solid waste management and water and wastewater services. In this endeavor, we have been highly successful in helping our municipal clients take advantage of the environmental benefits and cost savings that can be gained by implementing alternative and renewable energy solutions as well as proper stewardship and management of finite resources. These services span a broad array of legal services including procurement and contracting, land acquisition and leasing, regulatory compliance, and public construction and related issues.

Green Communities Initiatives. The Massachusetts Green Communities Act, Chapter 169 of the Acts of 2008, established a grant program and regulatory reforms that enable municipalities to obtain funding for alternative energy solutions, including wind turbines and solar power. Administered by a new Green Communities Office within the Massachusetts Department of Energy Resources, the Green Communities program provides several incentives to municipalities which qualify to be designated as a "Green Community," and thus eligible for state grants. The qualification process requires municipalities to implement certain regulatory reforms and best practices that require careful implementation. As a leader in municipal land use law, we have a unique ability to counsel our municipal clients on the steps that must be accomplished to achieve Green Community status under this program. Such steps include general and zoning bylaw amendments, expedited permitting, and implementation of new building standard requirements, including the new Stretch Code under the Massachusetts Building Code.

Energy Management Contracts. In the area of energy management, we have provided legal advice and services to our municipal clients in connection with the procurement and contracting for energy management services pursuant to G.L. c. 25, §§11C and 11I. Such contracts typically involve an agreement with energy services companies to conduct an energy audit of municipal buildings and then to implement identified energy savings measures to reduce building operation costs. Such agreements are highly technical in nature and require careful negotiations after undergoing a public bidding process required by law. Energy management contracts are beneficial to municipalities because they do not involve an appropriation in advance, but instead rely on cost savings guaranteed by the vendor over the life of the agreement which can have a term of up to twenty years.

Alternative Energy Solutions. In order for municipalities to maximize the potential for using municipal land to site alternative energy facilities, it is necessary to have legal counsel well versed in energy siting requirements. Our firm has developed a significant amount of expertise in this area which includes undertaking real estate dispositions and acquisitions and leasing arrangements that result in the siting of alternate energy facilities on municipally-owned land. In order to successfully site such facilities, municipalities require legal services that our firm is uniquely qualified to provide including legislative authorization, procurement and land disposition agreements, negotiating complex power purchase agreements, and advising our clients with respect to implementation of net metering agreements and renewable energy credit agreements.



Solid Waste Management. Establishing a municipality as a leader in the Green Communities initiative necessarily entails attention to solid waste disposal and management. This firm is a recognized state-wide expert in providing legal advice and services to communities seeking long-term solutions to solid waste management and recycling programs. In this regard, we have assisted numerous municipalities in negotiating long-term solid waste disposal agreements at solid waste resource recovery facilities, and we have advised our clients in all aspects of siting, permitting, operating, and closure of solid waste facilities, including landfills, transfer stations, and composting facilities. We have also assisted many municipalities in the management of municipally-owned landfills through the negotiation of long-term operating agreements with private vendors. We have been involved in all regulatory aspects of post-closure use of landfills including siting of solar and other alternative energy facilities in capped landfills.

Water and Wastewater. One of the essential elements of becoming a green community is the proper development of an adequate water supply and distribution systems and managing water resources in an environmentally responsible manner. This firm routinely advises cities and towns on Water Management Act requirements for the establishment and maintenance of new water supplies and for the permitting, design and construction services necessary to deliver potable water to residents and business. In the area of wastewater treatment, we have similarly provided a wide range of legal services to our municipal clients with respect to preparing and implementing wastewater facilities plans, designing and constructing wastewater treatment facilities, and advising with respect to regulatory compliance and enforcement.



K&P Green Communities and Alternative Energy Practice

Representative Matters

- Advise municipal clients on meeting the five criteria established by the Department of Energy Resources for designation as a Green Community and eligibility for state grant awards, including requirements for general and zoning by-law amendments, expedited permitting, and the adoption and implementation of the new Stretch Energy Code.
- Draft legal counsel certification letters evaluating a municipality's ability to meet the as-of-right zoning and expedited permitting requirements for renewable and alternative energy facilities in support of municipal clients' Green Communities Grant Program designation and grant applications.
- Represented the Towns of Belmont and Winchendon in the negotiating of energy management contracts with the selected vendor after advising the towns with respect to the proper procurement process.
- Represented the City of Newburyport and the towns of West Stockbridge, Leicester, Sutton, and Westford in the siting of solar and wind facilities. We have provided advice and guidance through the procurement process, including developing Requests for Proposals and contract documents.
- Worked closely with the City of Newburyport in developing one of the first municipal third party Solar Power Purchase Agreement projects in the Commonwealth after the enactment of the Green Communities Act. The Newburyport installation of a 500 kWh system on a City School building was recently dedicated with remarks by the Commissioner of the Department of Energy Resources recognizing it as the largest solar energy system in the Commonwealth serving the needs of a public school building, and a milestone for the development of the Governor's solar energy initiative.
- Represent the Belmont Municipal Light Plant regarding the acquisition of a suitable site for an electric substation project as well as on general municipal matters relating to municipal light plants.
- Represent the Towns of Harwich, Eastham, Sandwich and Provincetown all of whom have joined the Cape and Vineyard Electric Cooperative on issues relating to procurement, land use, contracting, environmental planning and permitting with respect to wind turbine projects and solar voltaic projects
- Negotiate power supply agreements on behalf of municipal clients
- Provide advice on the purchase and installation of solar energy systems to serve municipal buildings, as well as third party power purchase agreements under which a private entity owns,



designs, installs and maintains the solar array, providing the electricity generated to serve all or a portion of the public building's energy needs at a stated price per kWh

- Represented the Town of Southbridge in negotiating a long-term agreement with a private vendor to operate the Town's landfill. The agreement is expected to provide a net benefit to the Town of approximately \$129 Million over a twenty year period
- Negotiated a landfill operating agreement between the Town of Middleborough and a private landfill operator
- Successfully represented the Towns of Burlington, North Reading, Westford, and Sturbridge, among others, in obtaining multi-million dollar recoveries against companies that caused contamination of water supplies
- Successfully represented five municipalities in challenging the Massachusetts Department of Environmental Protection's water registration permit program
- Negotiated long-term design-build-operate contracts on behalf of the Towns of Provincetown and Plymouth and the City of Leominster for new wastewater treatment systems and sewer collection systems
- Successfully represented the Towns of Winchendon and Williamstown in negotiating a consent decree with the United States leading to the design and construction of state-of-the-art wastewater treatment plants

Chapter 28

THE COMMONWEALTH OF MASSACHUSETTS

In the Year Two Thousand and Nine

AN ACT TO IMPROVE THE LAWS RELATING TO CAMPAIGN FINANCE, ETHICS
AND LOBBYING.

* * *

SECTION 17. Sections 11A and 11A½ of chapter 30A of the General Laws are hereby repealed.

SECTION 18. Said chapter 30A is hereby further amended by adding the following 8 sections:-

Section 18: As used in this section and sections 19 to 25, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Deliberation", an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction; provided, however, that "deliberation" shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed.

"Emergency", a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.

"Executive session", any part of a meeting of a public body closed to the public for deliberation of certain matters.

"Intentional violation", an act or omission by a public body or a member thereof, in knowing by violating the open meeting law.

"Meeting", a deliberation by a public body with respect to any matter within the body's jurisdiction; provided, however, "meeting" shall not include:

(a) an on-site inspection of a project or program, so long as the members do not deliberate;

(b) attendance by a quorum of a public body at a public or private gathering, including a conference or training program or a media, social or other event, so long as the members do not deliberate;

(c) attendance by a quorum of a public body at a meeting of another

public body that has complied with the notice requirements of the open meeting law, so long as the visiting members communicate only by open participation in the meeting on those matters under discussion by the host body and do not deliberate;

(d) a meeting of a quasi--judicial board or commission held for the sole purpose of making a decision required in an adjudicatory proceeding brought before it; or

(e) a session of a town meeting convened under section 10 of chapter 39 which would include the attendance by a quorum of a public body at any such session.

"Minutes", the written report of a meeting created by a public body required by subsection (a) of section 23 and section 5A of chapter 66.

"Open meeting law", sections 18 to 25, inclusive.

"Post notice", to display conspicuously the written announcement of a meeting either in hard copy or electronic format.

"Preliminary screening", the initial stage of screening applicants conducted by a committee or subcommittee of a public body solely for the purpose of providing to the public body a list of those applicants qualified for further consideration or interview.

"Public body", a multiple-member board, commission, committee or subcommittee within the executive or legislative branch or within any county, district, city, region or town, however created, elected, appointed or otherwise constituted, established to serve a public purpose; provided, however, that the governing board of a local housing, redevelopment or other similar authority shall be deemed a local public body; provided, further, that the governing board or body of any other authority established by the general court to serve a public purpose in the commonwealth or any part thereof shall be deemed a state public body; provided, further, that "public body" shall not include the general court or the committees or recess commissions thereof, bodies of the judicial branch or bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer and shall not include the board of bank incorporation or the policyholders protective board; and provided further, that a subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.

"Quorum", a simple majority of the members of the public body, unless otherwise provided in a general or special law, executive order or other authorizing provision.

Section 19. (a) There shall be in the department of the attorney general a division of open government under the direction of a director of open government. The attorney general shall designate an assistant attorney general

as the director of the open government division. The director may appoint and remove, subject to the approval of the attorney general, such expert, clerical and other assistants as the work of the division may require. The division shall perform the duties imposed upon the attorney general by the open meeting law, which may include participating, appearing and intervening in any administrative and judicial proceedings pertaining to the enforcement of the open meeting law. For the purpose of such participation, appearance, intervention and training authorized by this chapter the attorney general may expend such funds as may be appropriated therefor.

(b) The attorney general shall create and distribute educational materials and provide training to public bodies in order to foster awareness and compliance with the open meeting law. Open meeting law training may include, but shall not be limited to, instruction in:

- (1) the general background of the legal requirements for the open meeting law;
- (2) applicability of sections 18 to 25, inclusive, to governmental bodies;
- (3) the role of the attorney general in enforcing the open meeting law; and
- (4) penalties and other consequences for failure to comply with this chapter.

(c) There shall be an open meeting law advisory commission. The commission shall consist of 5 members, 2 of whom shall be the chairmen of the joint committee on state administration and regulatory oversight; 1 of whom shall be the president of the Massachusetts Municipal Association or his designee; 1 of whom shall be the president of the Massachusetts Newspaper Publishers Association or his designee; and 1 of whom shall be the attorney general or his designee.

The commission shall review issues relative to the open meeting law and shall submit to the attorney general recommendations for changes to the regulations, trainings, and educational initiatives relative to the open meeting law as it deems necessary and appropriate.

(d) The attorney general shall, not later than January 31, file annually with the commission a report providing information on the enforcement of the open meeting law during the preceding calendar year. The report shall include, but not be limited to:

- (1) the number of open meeting law complaints received by the attorney general;
- (2) the number of hearings convened as the result of open meeting law complaints by the attorney general;
- (3) a summary of the determinations of violations made by the attorney

general;

(4) a summary of the orders issued as the result of the determination of an open meeting law violation by the attorney general;

(5) an accounting of the fines obtained by the attorney general as the result of open meeting law enforcement actions;

(6) the number of actions filed in superior court seeking relief from an order of the attorney general; and

(7) any additional information relevant to the administration and enforcement of the open meeting law that the attorney general deems appropriate.

Section 20. (a) Except as provided in section 21, all meetings of a public body shall be open to the public.

(b) Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon as reasonably possible prior to such meeting. Notice shall be printed in a legible, easily understandable format and shall contain the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting.

(c) For meetings of a local public body, notice shall be filed with the municipal clerk and posted in a manner conspicuously visible to the public at all hours in or on the municipal building in which the clerk's office is located.

For meetings of a regional or district public body, notice shall be filed and posted in each city or town within the region or district in the manner prescribed for local public bodies. For meetings of a regional school district, the secretary of the regional school district committee shall be considered to be its clerk and shall file notice with the clerk of each city or town within such district and shall post the notice in the manner prescribed for local public bodies. For meetings of a county public body, notice shall be filed in the office of the county commissioners and a copy of the notice shall be publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for the purpose.

For meetings of a state public body, notice shall be filed with the attorney general by posting on a website in accordance with procedures established for this purpose.

The attorney general shall have the authority to prescribe or approve alternative methods of notice where the attorney general determines such

alternative will afford more effective notice to the public.

(d) The attorney general may by regulation or letter ruling, authorize remote participation by members of a public body not present at the meeting location; provided, however, that the absent members and all persons present at the meeting location are clearly audible to each other; and provided, further, that a quorum of the body, including the chair, are present at the meeting location. Such authorized members may vote and shall not be deemed absent for the purposes of section 23D of chapter 39.

(e) After notifying the chair of the public body, any person may make a video or audio recording of an open session of a meeting of a public body, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. At the beginning of the meeting the chair shall inform other attendees of any such recordings.

(f) No person shall address a meeting of a public body without permission of the chair, and all persons shall, at the request of the chair, be silent. No person shall disrupt the proceedings of a meeting of a public body. If, after clear warning from the chair, a person continues to disrupt the proceedings, the chair may order the person to withdraw from the meeting and if the person does not withdraw, the chair may authorize a constable or other officer to remove the person from the meeting.

(g) Within 2 weeks of qualification for office, all persons serving on a public body shall certify, on a form prescribed by the attorney general, the receipt of a copy of the open meeting law, regulations promulgated pursuant to section 25 and a copy of the educational materials prepared by the attorney general explaining the open meeting law and its application pursuant to section 19. Unless otherwise directed or approved by the attorney general, the appointing authority, city or town clerk or the executive director or other appropriate administrator of a state or regional body, or their designees, shall obtain such certification from each person upon entering service and shall retain it subject to the applicable records retention schedule where the body maintains its official records. The certification shall be evidence that the member of a public body has read and understands the requirements of the open meeting law and the consequences of violating it.

Section 21. (a) A public body may meet in executive session only for the following purposes:

(1) To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a

public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties. A public body shall hold an open session if the individual involved requests that the session be open. If an executive session is held, such individual shall have the following rights:

- i. to be present at such executive session during deliberations which involve that individual;
- ii. to have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session;
- iii. to speak on his own behalf; and
- iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense.

The rights of an individual set forth in this paragraph are in addition to the rights that he may have from any other source, including, but not limited to, rights under any laws or collective bargaining agreements and the exercise or non-exercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual.

2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;

3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares;

4. To discuss the deployment of security personnel or devices, or strategies with respect thereto;

5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints;

6. To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body;

7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements;

8. To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening;

9. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that:

(i) any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and

(ii) no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session; or

10. to discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164, in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.

(b) A public body may meet in closed session for 1 or more of the purposes enumerated in subsection (a) provided that:

1. the body has first convened in an open session pursuant to section 21;

2. a majority of members of the body have voted to go into executive session and the vote of each member is recorded by roll call and entered into the minutes;

3. before the executive session, the chair shall state the purpose for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called;

4. the chair shall publicly announce whether the open session will reconvene at the conclusion of the executive session; and

5. accurate records of the executive session shall be maintained pursuant to section 23.

Section 22. (a) A public body shall create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of

all votes.

(b) No vote taken at an open session shall be by secret ballot. Any vote taken at an executive session shall be recorded by roll call and entered into the minutes.

(c) Minutes of all open sessions shall be created and approved in a timely manner. The minutes of an open session, if they exist and whether approved or in draft form, shall be made available upon request by any person within 10 days.

(d) Documents and other exhibits, such as photographs, recordings or maps, used by the body at an open or executive session shall, along with the minutes, be part of the official record of the session.

(e) The minutes of any open session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, shall be public records in their entirety and not exempt from disclosure pursuant to any of the exemptions under clause Twenty-sixth of section 7 of chapter 4. Notwithstanding this paragraph, the following materials shall be exempt from disclosure to the public as personnel information: (1) materials used in a performance evaluation of an individual bearing on his professional competence, provided they were not created by the members of the body for the purposes of the evaluation; and (2) materials used in deliberations about employment or appointment of individuals, including applications and supporting materials; provided, however, that any resume submitted by an applicant shall not be exempt.

(f) The minutes of any executive session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, may be withheld from disclosure to the public in their entirety under subclause (a) of clause Twenty-sixth of section 7 of chapter 4, as long as publication may defeat the lawful purposes of the executive session, but no longer; provided, however, that the executive session was held in compliance with section 21.

When the purpose for which a valid executive session was held has been served, the minutes, preparatory materials and documents and exhibits of the session shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of said chapter 4 apply to withhold these records, or any portion thereof, from disclosure.

For purposes of this subsection, if an executive session is held pursuant to clause (2) or (3) of subsections (a) of section 21, then the minutes, preparatory materials and documents and exhibits used at the session may be withheld from disclosure to the public in their entirety, unless and until such time as a litigating, negotiating or bargaining position is no

longer jeopardized by such disclosure, at which time they shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of said chapter 4 apply to withhold these records, or any portion thereof, from disclosure.

(g) (1) The public body, or its chair or designee, shall, at reasonable intervals, review the minutes of executive sessions to determine if the provisions of this subsection warrant continued non-disclosure. Such determination shall be announced at the body's next meeting and such announcement shall be included in the minutes of that meeting.

(2) Upon request by any person to inspect or copy the minutes of an executive session or any portion thereof, the body shall respond to the request within 10 days following receipt and shall release any such minutes not covered by an exemption under subsection (f); provided, however, that if the body has not performed a review pursuant to paragraph (1), the public body shall perform the review and release the non-exempt minutes, or any portion thereof, not later than the body's next meeting or 30 days, whichever first occurs. A public body shall not assess a fee for the time spent in its review.

Section 23. (a) Subject to appropriation, the attorney general shall interpret and enforce the open meeting law.

(b) At least 30 days prior to the filing of a complaint with the attorney general, the complainant shall file a written complaint with the public body, setting forth the circumstances which constitute the alleged violation and giving the body an opportunity to remedy the alleged violation; provided, however, that such complaint shall be filed within 30 days of the date of the alleged violation. The public body shall, within 14 business days of receipt of a complaint, send a copy of the complaint to the attorney general and notify the attorney

general of any remedial action taken. Any remedial action taken by the public body in response to a complaint under this subsection shall not be admissible as evidence against the public body that a violation occurred in any later administrative or judicial proceeding relating to such alleged violation. The attorney general may authorize an extension of time to the public body for the purpose of taking remedial action upon the written request of the public body and a showing of good cause to grant the extension.

(c) Upon the receipt of a complaint by any person, the attorney general shall determine, in a timely manner, whether there has been a violation of the open meeting law. The attorney general may, and before imposing any civil penalty on a public body shall, hold a hearing on any such complaint. Following a determination that a violation has occurred, the attorney general shall determine whether the public body, 1 or more of the members, or both,

are responsible and whether the violation was intentional or unintentional. Upon the finding of a violation, the attorney general may issue an order to:

- (1) compel immediate and future compliance with the open meeting law;
- (2) compel attendance at a training session authorized by the attorney general;
- (3) nullify in whole or in part any action taken at the meeting;
- (4) impose a civil penalty upon the public body of not more than \$1,000 for each intentional violation;
- (5) reinstate an employee without loss of compensation, seniority, tenure or other benefits;
- (6) compel that minutes, records or other materials be made public; or
- (7) prescribe other appropriate action.

(d) A public body or any member of a body aggrieved by any order issued pursuant to this section may, notwithstanding any general or special law to the contrary, obtain judicial review of the order only through an action in superior court seeking relief in the nature of certiorari; provided, however, that notwithstanding section 4 of chapter 249, any such action shall be commenced in superior court within 21 days of receipt of the order. Any order issued under this section shall be stayed pending judicial review; provided, however, that if the order nullifies an action of the public body, the body shall not implement such action pending judicial review.

(e) If any public body or member thereof shall fail to comply with the requirements set forth in any order issued by the attorney general, or shall fail to pay any civil penalty imposed within 21 days of the date of issuance of such order or within 30 days following the decision of the superior court if judicial review of such order has been timely sought, the attorney general may file an action to compel compliance. Such action shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets. If such body or member has not timely sought judicial review of the order, such order shall not be open to review in an action to compel compliance.

(f) As an alternative to the procedure in subsection (b), the attorney general or 3 or more registered voters may initiate a civil action to enforce the open meeting law.

Any action under this subsection shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets.

In any action filed pursuant to this subsection, in addition to all other remedies available to the superior court, in law or in equity, the court

shall have all of the remedies set forth in subsection (b).

In any action filed under this subsection, the order of notice on the complaint shall be returnable not later than 10 days after the filing and the complaint shall be heard and determined on the return day or on such day as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties; provided, however, that orders may be issued at any time on or after the filing of the complaint without notice when such order is necessary to fulfill the purposes of the open meeting law. In the hearing of any action under this subsection, the burden shall be on the respondent to show by a preponderance of the evidence that the action complained of in such complaint was in accordance with and authorized by the open meeting law; provided, however, that no civil penalty may be imposed on an individual absent proof that the action complained of violated the open meeting law.

(g) It shall be a defense to the imposition of a penalty that the public body, after full disclosure, acted in good faith compliance with the advice of the public body's legal counsel.

(h) Payment of civil penalties under this section paid to or received by the attorney general shall be paid into the general fund of the commonwealth.

Section 24. (a) Whenever the attorney general has reasonable cause to believe that a person, including any public body and any other state, regional, county, municipal or other governmental official or entity, has violated the open meeting law, the attorney general may conduct an investigation to ascertain whether in fact such person has violated the open meeting law. Upon notification of an investigation, any person, public body or any other state, regional, county, municipal or other governmental official or entity who is the subject of an investigation, shall make all information necessary to conduct such investigation available to the attorney general. In the event that the person, public body or any other state, regional, county, municipal or other governmental official or entity being investigated does not voluntarily provide relevant information to the attorney general within 30 days of receiving notice of the investigation, the attorney general may: (1) take testimony under oath concerning such alleged violation of the open meeting law; (2) examine or cause to be examined any documentary material of whatever nature relevant to such alleged violation of the open meeting law; and (3) require attendance during such examination of documentary material of any person having knowledge of the documentary material and take testimony under oath or acknowledgment in respect of any such documentary material. Such testimony and examination shall take place in the county where such person resides or has a place of business or, if the parties consent or such person

is a nonresident or has no place of business within the commonwealth, in Suffolk county.

(b) Notice of the time, place and cause of such taking of testimony, examination or attendance shall be given by the attorney general at least 10 days prior to the date of such taking of testimony or examination.

(c) Service of any such notice may be made by: (1) delivering a duly-executed copy to the person to be served or to a partner or to any officer or agent authorized by appointment or by law to receive service of process on behalf of such person; (2) delivering a duly-executed copy to the principal place of business in the commonwealth of the person to be served; or (3) mailing by registered or certified mail a duly-executed copy addressed to the person to be served at the principal place of business in the commonwealth or, if said person has no place of business in the commonwealth, to his principal office or place of business.

(d) Each such notice shall: (1) state the time and place for the taking of testimony or the examination and the name and address of each person to be examined, if known and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs; (2) state the statute and section thereof, the alleged violation of which is under investigation and the general subject matter of the investigation; (3) describe the class or classes of documentary material to be produced thereunder with reasonable specificity, so as fairly to indicate the material demanded; (4) prescribe a return date within which the documentary material is to be produced; and (5) identify the members of the attorney general's staff to whom such documentary material is to be made available for inspection and copying.

(e) No such notice shall contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum issued by a court of the commonwealth or require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of the commonwealth.

(f) Any documentary material or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of the commonwealth for good cause shown, be disclosed to any person other than the authorized agent or representative of the attorney general, unless with the consent of the person producing the same; provided, however, that such material or information may be disclosed by the attorney general in court pleadings or other papers filed in court.

(g) At any time prior to the date specified in the notice, or within 21 days after the notice has been served, whichever period is shorter, the court may, upon motion for good cause shown, extend such reporting date or modify or

set aside such demand or grant a protective order in accordance with the standards set forth in Rule 26(c) of the Massachusetts Rules of Civil Procedure. The motion may be filed in the superior court of the county in which the person served resides or has his usual place of business or in Suffolk county. This section shall not be applicable to any criminal proceeding nor shall information obtained under the authority of this section be admissible in evidence in any criminal prosecution for substantially identical transactions.

Section 25. (a) The attorney general shall have the authority to promulgate rules and regulations to carry out enforcement of the open meeting law.

(b) The attorney general shall have the authority to interpret the open meeting law and to issue written letter rulings or advisory opinions according to rules established under this section.

SECTION 19. Sections 9F and 9G of chapter 34 of the General Laws are hereby repealed.

SECTION 20. Sections 23A to 23C, inclusive, of chapter 39 of the General Laws are hereby repealed.



The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Public Records Division

BL
PM III
JW
Energy Comm
YLC

Alan N. Cote
Supervisor of Records

May 13, 2010
SPR10/104

Mr. David Roberson
Planning Board
Town of Rowe
321 Zoar Road
P.O. Box 462
Rowe, MA 01367

Dear Mr. Roberson:

I have received your petition appealing the response of the Town of Rowe (Town) to your March 23, 2010 request for records. Specifically, you requested a copy of various minutes and correspondence.

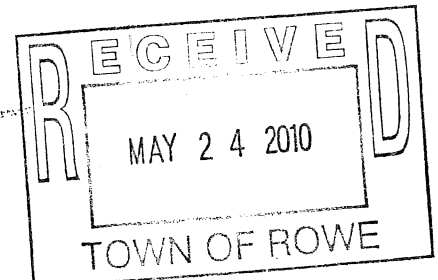
In an April 27, 2010 telephone conversation, Town Coordinator Ellen Miller informed Rebecca Murray, an attorney on my staff, that the Town was awaiting clarification from you whether you were making the request in your capacity as the Planning Board Chairman or if you were making a public records request as a private citizen. Ms. Miller explained that the Town has a policy where it is inclined to waive fees associated with the production of records for Town officials to avoid the situation where the Town is using money from its own funds for the internal production of records. Ms. Miller further explained the Town often assesses a fee in accordance with the Massachusetts Public Records Law when complying with a public records request from a private citizen. 950 C.M.R. 32.06.

In an April 30, 2010 telephone conversation, you stated to Attorney Murray that your requests were made on official Planning Board letterhead and you were making your requests for records in your capacity as a public official. You further stated that you were uninterested in making a public records request as a private citizen because of the fee associated with that method of request.

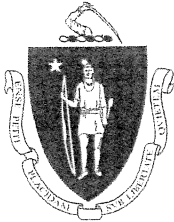
This office does not possess the authority to require the Town to waive fees associated with the production of records. Given that you are making the request for records in your capacity as Planning Board Chairman, this office will defer to Town policy for responding to internal requests from one Town Department to another.

Very truly yours,

Alan N. Cote
Supervisor of Records



cc: Ms. Ellen Miller



DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LT. GOVERNOR

JEFFREY B. MULLAN
SECRETARY & CEO

LUISA M. PAIEWONSKY
ADMINISTRATOR

Moving Massachusetts Forward.
massDOT
Massachusetts Department of Transportation



BL
PM III
JW
JMT

May 7, 2010

SUBJECT BRIDGE - Charlemont
Zoar Road over Pelham Brook
Bridge No. C-05-002

Town of Rowe
Board of Selectmen
P.O. Box 321
321 Zoar Road
Rowe, MA 01367

Dear Board of Selectmen:

MassDOT has received your April 27, 2010 letter concerning the Zoar Road Bridge (C-05-002) over Pelham Brook in the Town of Charlemont.

We are aware of the condition of this bridge and its importance to the citizens of Rowe and Charlemont.

This bridge is in the system, but a funding source is not currently identified. The District is working with the Boston Office to advance the project thru the PRC stage and into design.

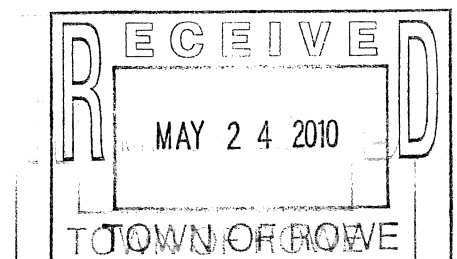
The District has recommended to the Boston Bridge Section that this bridge be designed by the newly organized in house bridge design section. The design will be started and possibly completed prior to a funding source becoming available. This will allow MassDOT to move quickly when the funds become available.

If you have any questions, please contact Mark DeVlyder, District Bridge Engineer, at (413) 637-5774.

Sincerely

Peter A. Niles, P.E.
District Highway Director

MTD/leb
cc LenoxBridge





COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1053

BL
Pm III
JW
JMT

SENATOR BENJAMIN B. DOWNING
BERKSHIRE, HAMPSHIRE & FRANKLIN DISTRICT
STATE HOUSE, ROOM 413-F
TEL. (617) 722-1625
FAX (617) 722-1623

20 BANK ROW, SUITE 202
PITTSFIELD, MA 01201
TEL. (413) 442-4008
FAX (413) 442-4077

COMMITTEES.

ETHICS & RULES (CHAIR)
HIGHER EDUCATION (VICE CHAIR)
BILLS IN THE THIRD READING (VICE CHAIR)
FINANCIAL SERVICES
VETERANS & FEDERAL AFFAIRS
CONSUMER PROTECTION & PROFESSIONAL LICENSURE
POST AUDIT & OVERSIGHT

May 6, 2010

Mr. Peter Niles, P.E.
District Highway Director
MassDOT
270 Main Street
Lenox, MA 01240

Dear Mr. Niles:

I write to bring your immediate attention to the enclosed correspondence from the Board of Selectman in Rowe that was previously sent to your office on April 27th.

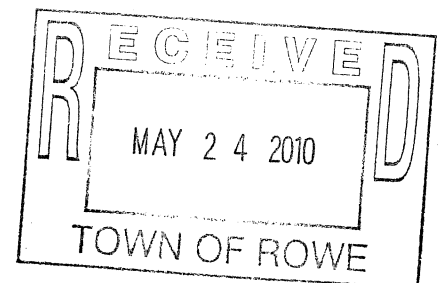
I understand the Town of Rowe holds serious concerns with the condition of Bridge #C-05-002, located over Pelham Brook in the village of Zoar, in the neighboring community of Charlemont. As there is no commerce in Rowe this bridge is the major thoroughfare for the townspeople to access stores, offices and gas stations. Further, it is used daily to transport middle and high school students, deliver U.S. mail, convey goods and supplies, and to give access to emergency aid and health services. Each year, further deterioration of the bridge is visibly evident and the possibility of its failing increases. Such a failure would be devastating to the residents of Rowe.

Thank you in advance for your time and thoughtful consideration of this important matter. If further information is needed, please contact the Rowe Board of Selectman at (413) 339-5520.

Sincerely,

BBD
BENJAMIN B. DOWNING, State Senator
Berkshire, Hampshire & Franklin District

BBD/aek
Enclosure
cc: Rowe Board of Selectmen
Charlemont Board of Selectmen
Principal Bob Clancy



May. 6. 2010 8:17AM

No. 1518 P. 1



Town of Rowe
FRANKLIN COUNTY
MASSACHUSETTS
01367

Settled as Myrfield 1763 - Incorporated as Rowe 1785

321 Zoar Road
P.O. Box 462
Rowe, Massachusetts 01367
www.rowe-ma.gov
email: admin@rowe-ma.gov
Ph: 413-339-5520
Fax: 413-339-5316
BOARD OF SELECTMEN

April 27, 2010

Peter Niles, P.E., District Highway Director
District 1
270 Main Street
Lenox MA 01240

Dear Director Niles:

On behalf of the townspeople of Rowe, the Board of Selectmen are writing to express our concern about the condition of Bridge #C-05-002 located over Pelham Brook in the the village of Zoar in the Town of Charlemont.

This roadway is the major thoroughfare for our townspeople. It is used daily transporting our middle and high school students, transporting U.S. mail, delivering goods and supplies, and giving access to emergency and health services. Honestly, the only thing you can buy in Rowe are postage stamps. We have to leave town for everything else. There are no stores, no gas stations, no doctors' offices.

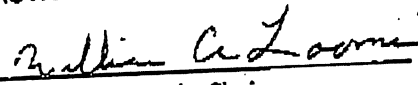
Each year we see this bridge deteriorate, but this winter was the worst it's ever been. The patches on the bridge were replaced sometimes on a weekly basis. On many occasions you could see through the decking down to the water, as patch after patch disappeared. Into the brook we guess.

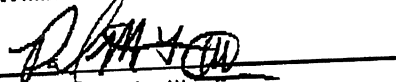
If...when...this bridge fails, it will be devastating to all in our town. From the mail delivery, to school bus routes, to emergency services, to just plain getting back and forth to work. What can we do to get this bridge repair—or perhaps replacement—in the works immediately? If there is anything we can do here at the local level, please let us know.

This is critical.

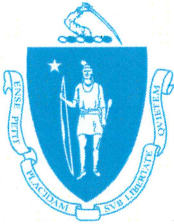
Sincerely,

ROWE BOARD OF SELECTMEN


William A. Loomis, Chair


Paul McLatchy III

cc Charlemont Board of Selectmen
Charlemont Ambulance Service
Rowe DPW, Rowe EMS, Rowe Fire, Rowe Police, ✓ Rowe School, Rowe U.S. Post Office

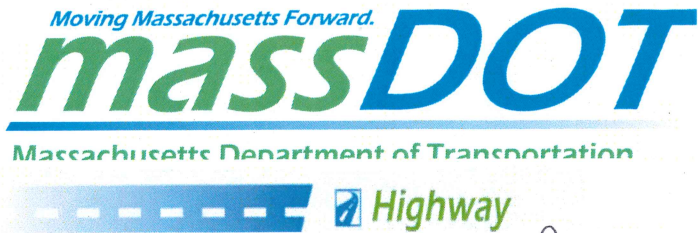


DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LT. GOVERNOR

JEFFREY B. MULLAN
SECRETARY & CEO

LUISA M. PAIEWONSKY
ADMINISTRATOR



May 7, 2010

BL
PMITT
JW
JMT

SUBJECT BRIDGE - Charlemont
Zoar Road over Pelham Brook
Bridge No. C-05-002

Town of Rowe
Board of Selectmen
P.O. Box 321
321 Zoar Road
Rowe, MA 01367

Dear Board of Selectmen:

MassDOT has received your April 27, 2010 letter concerning the Zoar Road Bridge (C-05-002) over Pelham Brook in the Town of Charlemont.

We are aware of the condition of this bridge and its importance to the citizens of Rowe and Charlemont.

This bridge is in the system, but a funding source is not currently identified. The District is working with the Boston Office to advance the project thru the PRC stage and into design.

The District has recommended to the Boston Bridge Section that this bridge be designed by the newly organized in house bridge design section. The design will be started and possibly completed prior to a funding source becoming available. This will allow MassDOT to move quickly when the funds become available.

If you have any questions, please contact Mark DeVlyder, District Bridge Engineer, at (413) 637-5774.

Sincerely

Peter A. Niles, P.E.
District Highway Director

MTD/leb
cc LenoxBridge



BALES ENERGY ASSOCIATES

100 River Road
Gill, Massachusetts 01354
413-342-9352

bart.balesenergy@gmail.com
*Energy Engineering Services for Massachusetts
& the Northeast Since 1990*

Att: Jack Packard
Chair -- Energy Committee
Town Of Rowe
Rowe, Massachusetts

Re: Proposal for Energy Advising Services

Hello Jack,

We are pleased to provide this proposal for energy advising services relating to a ground-mounted solar electric array being planned for installation on the grounds of the elementary school. It is our understanding that:

- The Town has already received significant funding for the installation of the array from the federal government stimulus funds.
- That the Town has authorized in a town meeting an amount of \$4,000 for energy advising services ~~by Bart Bales (of Bales Energy Associates)~~ on this project. It is understood that it is possible that additional funds beyond the \$4,000 may be made available from other funding sources, including the federal grant and other sources.
- That the Town required and continues to require aid in developing preliminary information concerning the site and the array so that the Town may issue a Request for Proposals under a design-build basis from a single source contractor for the solar electric system design, provision of all necessary materials & installation services.

In the best interests of the Town of Rowe, given the relative timing of project schedule requirements and town meeting schedules for formal funding authorization, and other factors, Bales Energy Associates provided some services in advance of a formal contract based upon verbal and email authorization from the Town.

Bales Energy Associates offers the requested energy advisory services under the Division of Capital Asset Management's Energy and Facility Advisor program at a steeply discounted rate of \$105/ hour (from the normal rate of \$150/hour) ~~for the current fiscal year.~~ Services for the currently authorized amount of \$4,000 shall be provided on this basis. (Please note that energy and facility advisory services may be provided under the DCAM advisor program, but that final design services are provided under other contracts with different requirements.)


Thank you for the opportunity to work with the Town of Rowe.

Best wishes,


Bart Bales, PE MSME

To accept this contract, sign and date both copies. Scan one copy and return by email to bart.balesenergy@gmail.com. Return one copy to Att: Bart Bales at the address shown.

Accepted & authorized for the Town of Rowe, Massachusetts by:

Signature:  Date 5/26/10
Printed Name Paul McLatchy III Date 5/26/10

05/20/2010
8:14 AM

TOWN of ROWE, MA
MOTOR VEHICLE REFUNDS REPORT
DATES FROM 05/23/2010 - 05/23/2010
With Added Interest at 0.00% thru 05/20/2010

PAGE 1
LEVY YEAR: 2010

TAXPAYER NAME(S)/ADDRESS -----	BK BILL/REASON -----	REFUND -----	INT/DAYS -----	TOTAL -----
SPRAGUE BRITTANI M 242 FORD HILL RD ROWE MA 01367-9763	1 353 TRADED VEHICLE	36.25	0.00	36.25
REFUND DETAIL				
	TAXES AMOUNT	36.25	0.00	36.25

To the Treasurer:

05/20/2010

I hereby certify that each of the above named persons is entitled to a refund. Upon approval for payment as required by General Laws, Chapter 41, Section 52 and in compliance with Chapter 59, Section 69, you are to pay to each person named in the foregoing schedule the amount of refund set against the respective name, the aggregate of said refunds being \$ 36.25

Sandra P. Daviau
SANDRA P. DAVIAU
Collector of Taxes

THE REFUNDS AS SET FORTH ABOVE ARE HEREBY APPROVED FOR PAYMENT

Joseph Wood
[Signature]

Ellen B. Miller
City Auditor of other Accounting Officer

Selectman or Town Accountant



B13✓

REQUEST FOR TRANSFER OF FUNDS BETWEEN EXISTING LINE ITEMS

To: Board of Selectmen
Town of Rowe
Rowe, Massachusetts

Request is hereby made for the following transfer of funds, in accordance with the MGL c.44, Sec. 33B,
Transfer of Appropriations:

1. Amount Requested: \$ 2,000.00

2. Transfer From:

01-5-204-224
Acct No. ~~01-5-204-220~~
Acct Name: Hay. Fuel/Town vehicles
DPW Wages

Transfer To:

Acct No. 01-5-101-296
Acct Name: SYE Grasshoppers Acct

3. Reason for Transfer:

To extended work season for Summer Youth
program.

John J. H.
Officer or Department Head

Approved:

R. M. Yon
Approved

Date Approved: 5/26/10

Finance Committee Concurrence:

Signature

Date

Transfer Complete:

Town Accountant Signature

Date

Notes: 1. Transfers between accounts (excepting School accounts) are allowed during May and June of each fiscal year, or during the first 15 days of the new fiscal year to apply to the previous fiscal year.

2. The amount transferred from one dept. to another, or within a dept., may not exceed, in the aggregate, 3% of the annual budget of the dept. from or within which the transfer is made, or \$5,000, whichever is greater.

Town of Rowe
Board of Selectmen
BID OPENING RESULTS - Wed, May 26, 2010

tem	Bidder	Bid Price	Action Taken:
-----	--------	-----------	---------------

TYPE I PAVING - 6:15pm

1 Warner Bros

Sunderland MA

Roadway Paving	\$	69.00/ton
Tack coat	\$	4.00 /gal

Bid awarded to Warner Bros

" " "

2 Lane Construction

Northfield MA

Roadway Paving	\$	73.97 /ton
Tack coat	\$	6.81 /gal

3

Roadway Paving	\$	/ton
----------------	----	------

Ellen B. Miller

Ellen B. Miller
Chief Procurement Officer

May 26, 2010

Date



Town of Rowe

FRANKLIN COUNTY

MASSACHUSETTS 01367

BOARD OF SELECTMEN POLICIES & PROCEDURES

Criminal Offender Record Information (CORI) POLICY

Where Criminal Offender Record Information (CORI) checks are part of a general background check for employment, volunteer work or licensing purposes, the following practices and procedures will generally be followed:

1. CORI checks will only be conducted as authorized by the Criminal History Systems Board (CHSB). All applicants will be notified that a CORI check will be conducted. If requested, the applicant will be provided with a copy of the CORI policy.
2. An informed review of a criminal record requires adequate training. Accordingly, all personnel authorized to review CORI in the decision-making process will be thoroughly familiar with the educational materials made available by CHSB.
3. Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant. Rather, determinations of suitability based on CORI checks will be made consistent with this policy and any applicable law or regulations.
4. If a criminal record is received from CHSB, the authorized individual will closely compare the record provided by CHSB with the information on the CORI request form and any other identifying information provided by the applicant, to ensure the record relates to the applicant.
5. If the Town of Rowe is inclined to make an adverse decision based on the results of the CORI check, the applicant will be notified immediately. The applicant shall be provided with a copy of the criminal record and the organization's CORI policy, advised of the part(s) of the record that make the individual unsuitable for the position or license, and given an opportunity to dispute the accuracy and relevance of the CORI record.
6. Applicants challenging the accuracy of the policy shall be provided a copy of CHSB's ***Information Concerning the Process in Correcting a Criminal Record***. If the CORI record provided does not exactly match the identification information provided by the applicant, the Town of Rowe will make a determination based on a comparison of the CORI record and documents provided by the applicant. The Town of Rowe may contact CHSB and request a detailed search consistent with CHSB policy.
7. If the Town of Rowe reasonably believes the record belongs to the applicant and is accurate, based on the information as provided in section 4 of this policy, then the determination of suitability for the position or license will be made. Unless otherwise provided by law, factors considered in determining suitability may include, but not be limited to the following:
 - a) Relevance of the crime to the position sought;
 - b) The nature of the work to be performed;
 - c) Time since the conviction;
 - d) Age of the candidate at the time of the offense;
 - e) Seriousness and specific circumstances of the offense;
 - f) The number of offenses;
 - g) Whether the applicant has pending charges;
 - h) Any relevant evidence of rehabilitation or lack thereof;
 - i) Any other relevant information, including information submitted by the candidate or requested by the hiring authority.
8. The Town of Rowe will notify the applicant of the decision and the basis of the decision in a timely manner.

Due to the confidential nature of this information, access to CORI is limited to the Town Coordinator, who has signed the Confidentiality Statement as required by the CHSB. Access to CORI may be shared with the official, employee, or volunteer to who it pertains. This information is stored in a separate, locked file case in the town safe at the Rowe Town Hall.

It is the policy of the Town of Rowe that all town officials and employees be CORI checked.

WiredWest
Connecting Western Mass to the World

PO Box 312 • Ashfield MA 01330-0312

Be
pm III
JW
David D

May 19, 2010

Board of Selectmen
Town of Rowe
321 Zoar Rd.
P.O. Box 308
Rowe MA 01367

(3) Alt + Reps appt'd 8-17-10
- David Ivoire
- Dan Weissman
- Russ Jolly

Sept. 11th, 2010
next mtg.
OK to have
"3 alts"

Dear Selectboard Members,

Congratulations! Your town has voted to join with other western Mass. towns to work together to build a state-of-the-art fiber communications network. To date, 31 towns have joined the effort and there are many more town meetings coming up where we expect to see more towns joining us. As we are all well-aware, broadband connectivity is of crucial importance to the survival of our towns and we'd like to begin work on this project as soon as possible. We are planning on having a meeting of town representatives on June 26. To that end, we request that you select one representative and one alternate to serve on the WiredWest Organizing Committee.

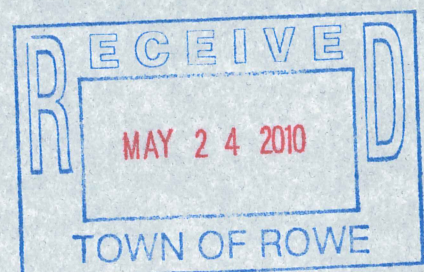
These individuals do not need to have specific knowledge of broadband technical issues; more important is that they be committed to attending pre-scheduled monthly meetings. Both the primary and alternate representatives should attend each meeting, although only the primary representative will be voting. Then, if for some reason, the alternate is the only attendee, that person will know what's going on and be able to represent your town's wishes accurately.

Please forward to me the names, email addresses and phone numbers of your primary and alternate representatives, clearly indicating which position each individual holds. If you have any questions about this process, please don't hesitate to contact me at your convenience. We thank you and your town for joining this unprecedented effort to provide affordable, universal access to broadband services to our towns.

Sincerely,

David Greenberg

David Greenberg
Chair, WiredWest Communications
dgreenberg@wired-west.net
(413) 624-6557





Br
pm III
JW

FRANKLIN
REGIONAL
TRANSIT
AUTHORITY

474 Main Street
Greenfield, MA 01301
Tel: (413) 774-2262
Fax: (413) 772-2202

May 5, 2010

who is designee?

Dear Board of Selectmen,

Enclosed you will find the revised copy of the FRTA Advisory Board By-laws and the Executive Committee By-laws which were voted and approved at the FRTA Advisory Board meeting on March 25, 2010. Please read through the By-laws and note that changes to the By-laws were to clarify that **each FRTA member community may appoint one (1) individual as a designee in addition to the one (1) member as defined by M.G.L. Chapter 161B.** In an attempt to keep all records complete and up to date, I am requesting that you submit, in writing, the town's current Advisory Board member and (if applicable) the designee for the remainder of FY'10. Please also include mailing, email, and telephone information for both the Advisory Board member and designee (if applicable). As a reminder, please be sure that both the Advisory Board member and designee (if applicable) complete the Massachusetts State Ethics training online at http://db.state.ma.us/ethics/quiz_MEthics/index.asp and return a copy of the State Ethics Commission Receipt to FRTA. If you have any questions about the FRTA By-laws or the ethics training please feel free to contact me at (413) 774-2262 Ext. 105.

Sincerely,

Michael Perreault
Assistant Administrator

BY-LAWS
Of the
ADVISORY BOARD
To the
FRANKLIN REGIONAL TRANSIT AUTHORITY

ARTICLE I – OFFICERS

Section 1 – The officers of the Advisory Board shall be comprised of a chairman, vice-chairman and clerk. The chairman, vice-chairman and clerk shall be members (or member designees, as defined by Article IV of these By-laws) of the Advisory Board. All officers shall be elected by a majority vote of the Advisory Board. Majority is a weighted vote (as defined by Sections 5 of Chapter 161B of the Massachusetts General Laws) for any action when necessary (other than unanimous votes).

Section 2 – Election of Officers – The officers elected shall be entitled to serve a maximum of two consecutive terms at the same position or until their successors are elected. Beginning Fiscal Year 2008 (July 1, 2007) the Clerk will be elected to a 1 year term, the Vice-Chairman will be elected to a 2 year term, and the Chairman will be elected to a 3 year term after which the Advisory Board shall elect officers from among their membership at its regular May meeting, such officers to be entitled to serve for a term of three years expiring at the next regular May meeting of the Advisory Board or until their successors are elected. Officers that serve two consecutive terms at the same position can be re-elected after a one-term hiatus. If for any reason, there is no regular May meeting of the Advisory Board, officers shall be elected at the next special or regular meeting of the Advisory Board.

Section 3 – Vacancies – Vacancies in office, including those resulting from resignation, removal or an officer ceasing to hold the municipal office upon which advisory board membership is based, shall be filled for the un-expired term by election by majority vote of the advisory board at its next regular or special meeting following the creation of such vacancy.

Section 4 – Removal – After showing just cause, any officer may be removed from office by a majority vote of the Advisory Board at any regular or special meeting after giving such officer written notice sent certified mail fifteen days prior to the meeting.

Section 5 – Duties and Powers – The Chairman, or in the event of his absence or his vacating the chair, the Vice-Chairman, shall preside at all meetings of the advisory board and of its executive committee, but neither shall thereby be deprived of the right to vote. The Clerk or his/her designee shall be the recording officer of the advisory board and shall be responsible for making and keeping a record of all proceedings and votes of the advisory

board, and of its executive committee. The Clerk shall be responsible for the reviewing for accuracy all meeting minutes prior to presenting them to the Advisory Board for approval and to check for accuracy of archival copies. The Chairman, Vice-Chairman and Clerk shall also have such other powers and perform such other duties as may from time to time be voted by the advisory board or may be conferred or imposed by applicable law or these By-laws. The Chairman, under the approval of the board shall have the power to establish and appoint committees. For a list of duties and powers for the Advisory Board Officers see attached Addendum

Section 6 – In the absence of the Chairman and Vice-Chairman or the Clerk at any meeting, the Advisory Board may appoint “pro-tem” officers to act in their stead.

Section 7 – In the event that both the Advisory Board member and member designee from the same town attend an Advisory Board meeting where the member designee is also an officer the member designee would retain all powers and duties contained within these By-laws (with the exception of voting rights as defined by Article IV of these By-laws).

ARTICLE II – MEETINGS

Section 1 – Regular Meetings – The Advisory Board shall hold at least three meetings a year to be held in May, September, and March. The meetings will be held on the third Thursday in the month. The annual meeting in May will be to approve, revise or take other actions on the budget submitted to the Board by the Administrator, hold the election of officers, and any other action necessary to bring before the board.

Section 2 – Special Meetings – The Chairman or Vice-Chairman may at anytime call a special meeting. The clerk shall upon the written request of twenty-five percent of the member towns, call a special meeting of the Advisory Board without reference to a weighted vote.

Section 3 – Place of Meeting – All meetings of the Advisory Board shall be held at the FRTA office in the absence of a specific designation of some other meeting place in the notice of the meeting.

Section 4 – Notice of Meetings – All notices required by this section shall be in writing and shall be mailed, postage prepaid, to each member of the Advisory Board or to his or her designee, addressed to the member’s contact address and pursuant to Chapter 39 Section 23B of the Massachusetts General Laws. All notices shall be mailed at least ten days, excluding Saturdays, Sundays, and Holidays, prior to the day designated for the meeting which is the subject of the meeting.

Section 5 – Subject of Meetings – The Advisory Board may at its regular meeting deal with any matter upon which it is empowered to act by law or these By-laws. At a meeting, no action shall be considered other than is designated in the notice of the meeting. If an Executive Session is anticipated it will be included in the notice.

Section 6 – Quorum – A quorum of the Advisory Board shall be such members as shall have a weighted majority vote determined in accordance with Section 5 of Chapter 161B of the Massachusetts General Laws.

ARTICLE III – COMMITTEES

Section 1 – The Executive Committee – The Executive Committee must be made up of a majority weighted vote and in accordance with Massachusetts General Laws, Chapter 161B, Section 5, the Advisory Board may make a revocable delegation of its power of approval to an Executive Committee which shall comprise the Chairman, Vice-Chairman, Clerk and such other members or designees as are from time to time elected to said committee by said board. In order to act under the provisions of law and this article, the Executive Committee shall be charged at the time of such actions of the Advisory Board. All members of the Executive Committee shall serve only while a member of the Advisory Board.

Section 2 – Sub-committees – The Advisory Board may designate any committee(s), at its discretion, in which, such committee membership are not limited to be members or designees of the Advisory Board. Any committee formed under this section is for the purpose of advising and to make recommendations to the Advisory Board. The Advisory Board, at any time, may grant additional powers and/or duties to any committee. The Advisory Board, at any time, may revoke any powers or duties previously granted or dissolve any committee formed under this section.

ARTICLE IV – DESIGNEES

Section 1 – In accordance with M.G.L. Chapter 161B Section 5 each Chief Executive Officer of a member community may appoint one (1) individual (singular intended) as a designee to act in all matter before the Advisory Board.

Section 2 – As required by Sections 5 of Chapter 161B of the Massachusetts General Laws, the appointment of a designee must be filed in writing to the Franklin Regional Transit Authority and shall be construed as being for an indefinite period of time unless otherwise specifically provided in writing. Except as hereinafter provided, only a written notice filed with the Authority may revoke such designation. In the event that both a member of the Advisory Board and said member's designee are in attendance at a duly called meeting of the Advisory Board, only the Advisory board member shall be entitled to vote. The ineligibility of a person to serve on the Advisory Board shall constitute a revocation of any outstanding designation made by such person.

ARTICLE V – AMENDMENT OF BY-LAWS

These By-laws may be amended by the affirmative vote of the majority of the board at a duly called special meeting or regular meeting thereof after giving all Advisory Board members notice mailed fifteen days prior to said meeting to include in writing the proposed amendments.

ARTICLE VI – PARTICIPATION IN SERVICE AND COSTS OF SERVICE

It being the intent of the Authority to enable each member town to determine the level and cost of service to such town, any town or towns desiring certain service and willing to bear the costs of such service may establish the service, with the approval of the Administrator and/or the Advisory Board as provided under Chapter 161B of the Massachusetts General Laws, and may determine the conditions of service including but not limited to schedules, routes, or “open-door closed-door” policy, notwithstanding other member towns which are not participating in said service not incurring costs of said service.

Each member town, through its representative, shall be permitted to accept or reject participation and cost responsibility for any service within the said town. In the event that existing service or a suggested service involved a member town which does not desire to participate in the cost of such service, the member town’s representative shall so notify the Advisory Board in writing of rejection of the service and such town shall thereupon no longer be liable for the costs or any portion of the costs of such service.

From the date these By-laws are passed all towns that currently have services provided by the Franklin Regional Transit Authority will have six (6) months to review such services and may decide to exercise the option to cancel any or all services effective at the end of fiscal year 2008 and in accordance of The General Laws of Massachusetts Chapter 161B. Any cancellation of any service or services by a town after that point will require two fiscal years of notification to the Advisory Board in accordance of procedures outlined within The General Laws of Massachusetts Chapter 161B.

The conditions of such service shall thereupon be determined and received respectively by those remaining towns (or town) who have accepted cost responsibility for the service. Nothing in this section shall give any member town the right to deny operation of vehicles or the service through the said town by reason of its election not to participate in cost responsibility.

ARTICLE VII – COSTS OF ADMINISTRATION

All costs and expenses of the Authority relating to administration of its affairs, including but not limited to legal and accounting expense, administrator’s salary and benefits, staff salary and benefits, office supplies, equipment and rent and any other related costs or expenses, shall be allocated to each member town which elects to participate in service by multiplying the net administrative cost (being gross administrative cost less federal, state or other administrative cost reimbursement) by a fraction the numerator of which represents the specific member town’s share of gross operating costs of service (not including revenues) and the denominator of which represents the entire Authority’s gross operating costs (not including revenues) (See Appendix).

ARTICLE VIII – CAPITAL COSTS

All capital expenditures (as defined by the Authority’s auditors and accountants) shall be amortized in accordance with the recommendations of the Authority’s auditors

and accountants, and the cost of capital items shall be allocated to each member town which elects to participate in service by multiplying the local share of such cost by a fraction, the numerator of which represents the specific member town's gross operating costs of service (not including revenues), and the denominator of which represents the entire Authority's gross operating costs (not including revenues) for the particular fiscal year in which an allocation must be made. Said allocation to be separately made for each type of service and for each operator within each town (See Appendix).

ARTICLE IX – PROCEDURAL QUESTIONS

All procedural questions of the Advisory Board not specifically treated by these By-laws shall be resolved in accordance with Town Meeting Time: A Handbook Of Parliamentary Law Prepared By A Committee Of The Massachusetts Moderators Association, Richard B. Johnson, Benjamin A. Trustman, and Charles Y. Wadsworth 3rd Edition.

These By-laws operate in conjunction with Chapter 161B of the Massachusetts General Laws and these revised By-laws supersede all other previous By-laws.

VOTED: May 24, 1979
September 6, 1979
November 29, 1979
November 18, 1982
May 17, 2007
May 21, 2009
March 25, 2010

ADDENDUM
Advisory Board By-Laws
List of Duties for Advisory Board Officers

Chairman –

- Head all meetings
- Create meeting agendas
- Provide second signature to all checks over \$5000 along with the Administrator
- Be available to attend legislative hearings in Boston when necessary
- Be available to attend local, state, and federal meetings
- Be available for legal issues (meetings with attorney, litigation hearings, if any)
- Be available to the press
- Be available to meet with Management Company
- Keep Advisory Board informed of the operations
- All other authority provided by law
- (Reimbursement upon approval of Advisory Board for services)

Vice-Chairman –

- Provide any of the above in the absence of the Chairman.

Clerk –

- Review meeting minutes for accuracy before submitted to the Advisory Board for approval and check accuracy of archival copies
- Sign resolution of the Advisory Board
- All other authority provided by law

APPENDIX
Advisory Board By-laws
Cost Allocation

Not available at this time

BY-LAWS
Of the
EXECUTIVE COMMITTEE
For the
FRANKLIN REGIONAL TRANSIT AUTHORITY

ARTICLE I – EXECUTIVE COMMITTEE

In accordance with Massachusetts General Laws, Chapter 161B, Section 5, and Article 3 of the By-laws of the Advisory Board to the Franklin Regional Transit Authority, the Advisory Board may make a revocable delegation of its power of approval to an Executive Committee which shall comprise the Chairman, Vice-Chairman, and Clerk of the Advisory Board and such other members or designees as are from time to time elected to said committee by said board. In order to act under the provisions of law and this article, the Executive Committee was constituted by a vote of the Advisory Board, on November 13, 1982.

ARTICLE II– MEMBERSHIP

Membership will consist of not less than six (6) and not more than nine (9) towns in addition to the three (3) officers of the Advisory Board which are voted to the committee at the annual meeting. The membership of the Executive Committee is to include the towns of Athol, Deerfield, Greenfield, Montague, and Orange. Membership of the Executive Committee will be voted on annually at the Regular May Meeting unless it is the subject of call for a Special Meeting of the Advisory Board as defined in the FRTA Advisory Board By-laws. Each town representative on the Executive Committee (including officers) will be allowed one weighted vote as defined in Article V of these By-laws.

For the purpose of these By-laws a “member” is defined as a member or designee as outlined under the M.G.L. Chapter 161B. In the event that both a member of the Advisory Board and said member’s designee are in attendance at a duly called meeting of the Executive Committee, only the Advisory board member shall be entitled to vote. The ineligibility of a person to serve on the Advisory Board shall constitute a revocation of any outstanding designation made by such person.

All members of the Executive Committee other than the Chairman, Vice-Chairman, Clerk, along with the members from the towns of Athol, Deerfield, Greenfield, Montague, and Orange shall serve at the pleasure of the Advisory Board.

ARTICLE III – OFFICERS

The duly elected officers of the Advisory Board shall also serve as the officers of the Executive Committee.

ARTICLE IV – DUTIES AND POWERS

The Executive Committee shall have all duties and powers extended to it by the Advisory Board except the Executive Committee shall not have the power to set the FRTA budget nor shall the Executive Committee have any authority to affect membership of the Executive Committee. The Chairman, or in the event of his/her vacating the chair the Vice-Chairman, shall preside at all meetings of the Executive Committee. The Clerk shall be the recording officer of the Executive Committee and shall be responsible for making and keeping a record of all proceedings and votes of the Executive Committee. The Chairman, Vice-Chairman and Clerk shall also have such other powers and perform such other duties as may from time to time be voted by the Executive Committee or may be conferred or imposed upon them by applicable law or these By-Laws (See Appendix).

ARTICLE V – MEETINGS OF THE EXECUTIVE COMMITTEE

Regular Meetings – The Executive Committee shall hold at least three regular meetings a year to be held in April, August, and February. The meetings will be held on the third Thursday of the month. The meetings will be to review the next Advisory Board Meeting's agenda and any other necessary action to be brought before the Advisory Board.

Special Meetings – The Chairman or Vice-Chairman may at anytime call a special meeting. The Clerk shall upon the written request of twenty-five percent of the Executive Committee towns, call a special meeting of the Executive Committee without reference to the weighted vote.

Place of Meeting – All Meetings of the Executive Committee shall be held at the FRTA office in the absence of specific designation of some other meeting place in notice of the meeting.

Notice of Meetings – The Chairman, Vice-Chairman or Clerk when calling a special meeting shall do so by notifying all Executive Committee members setting forth the time, place and purpose of the meeting, at least 48 hours in advance of the meeting and pursuant to Chapter 39 Section 23B of the Massachusetts General Laws.

ARTICLE VI – QUORUM AND VOTING REQUIREMENTS

A quorum of the Executive Committee shall be achieved when more than 50% of the weighted vote (which is calculated annually) of the membership in Article II (above) is present. No business may be undertaken in the absence of a quorum. Actions of the

Executive Committee shall be voted by a majority of the weighted votes cast by the quorum. The Executive Committee members shall carry the same weighted vote as their respective current weighted vote as in the FRTA Advisory Board.

ARTICLE VII – AMENDMENT OF BY-LAWS

These By-laws may be amended by the affirmative majority of the Advisory Board of the FRTA at a duly called Special Meeting or Regular Meeting thereof after giving all Advisory Board members fifteen days notice in writing of the proposed amendments.

ARTICLE VIII – ALL PROCEDURAL QUESTIONS OF THE EXECUTIVE COMMITTEE

Challenge Procedure – After each Executive Committee meeting a draft copy of the minutes will be sent out along with the next Advisory Board meeting agenda to all FRTA Advisory Board members for review no later than seven days after the close of the meeting. For challenges to any Executive Committee decision, two or more towns must submit a challenge to the FRTA in writing outlining the challenge of the action taken by the Executive Committee within twenty-one days from the close of the meeting. The Executive Committee will then hold a Special Meeting to address the challenge in question in accordance with Article IV of these By-laws to address the challenge. The challenge and resolution will also be put on the following Advisory Board meeting agenda for discussion.

All procedural questions of the Executive Committee not specifically treated by these By-Laws shall be resolved in accordance with Town Meeting Time: A Handbook Of Parliamentary Law Prepared By A Committee Of The Massachusetts Moderators Association, Richard B. Johnson, Benjamin A. Trustman, and Charles Y. Wadsworth 3rd or latest Edition.

These By-laws operate in conjunction with Chapter 161B of the Massachusetts General Laws and these revised By-laws supersede all other previous By-laws.

VOTED:

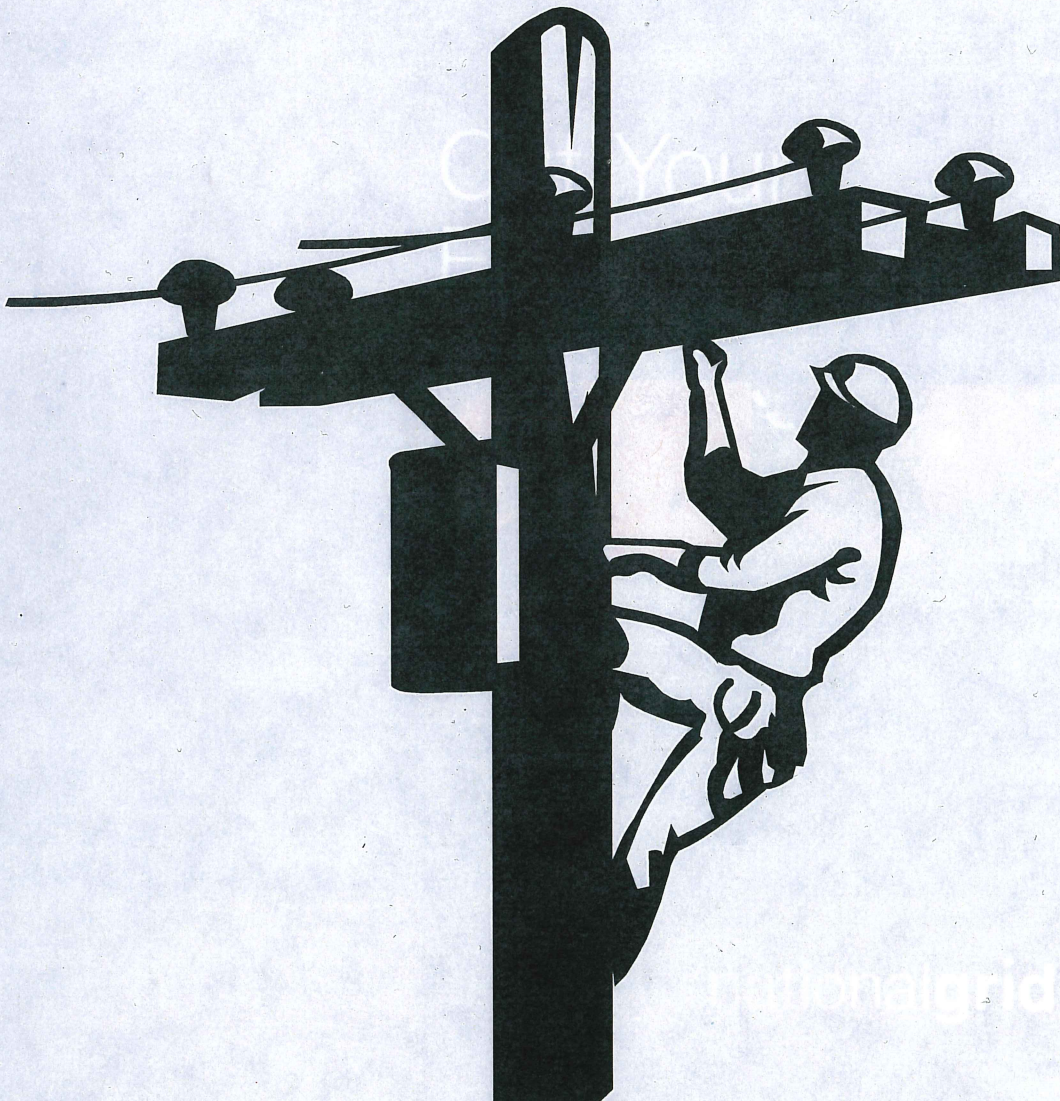
September 20, 2007
March 25, 2010

APPENDIX
Executive Committee By-laws
List of Duties and Powers

1. May make Administrator's salary recommendations to the Advisory Board.
2. Approve the bond for the Administrator.
3. May make recommendations for the purchase and sale of real estate.
4. Approve changes in fares.
5. Approve any substantial change in mass fixed route transportation service.
6. Review the Authority's report of operations by September first of each year before being submitted to the Advisory Board.
7. Authorize payments from the reserve fund.
8. Make recommendations to the Advisory Board on appropriations from the stabilization fund.
9. Make recommendations on the Annual Budget.
10. Appoint Goals and Objectives Committee.

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~~Principal Business Specialist~~

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COMMUNITY RELATIONS

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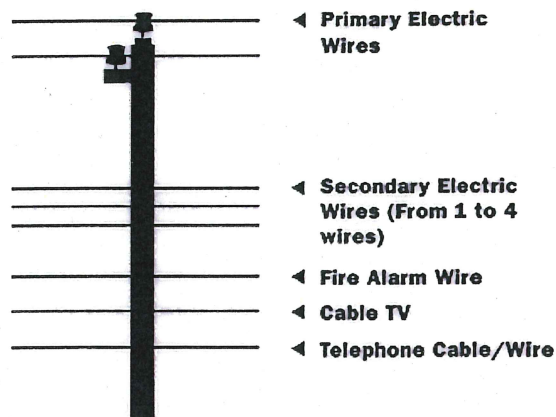
*Book is in
Selections Office*

Revised: 12/1/2009



MUNICIPAL CONTACT INFORMATION

Normal Wire Layout of Utility Pole



POLICE & FIRE EMERGENCY NUMBER (FOR MUNICIPAL POLICE & FIRE USE ONLY, NOT FOR PUBLIC USE): Available 24/7/365...includes reporting of wires down:

1-800-462-9852

Electrical Emergency Events

Priority 1 – Life Threatening / Imminent Danger:	1-877-247-3602
Priority 2 – Hindering Emergency Operation:	1-800-462-9852
Priority 3 – Non-Threatening Electrical Hazard:	1-800-462-9852

TO REPORT A POWER OUTAGE (FOR PUBLIC USE - 24/7/365):

Customer Contact Center:	1-800-322-3223
Automated Outage Reporting:	1-800-465-1212

TO REPORT A STREETLIGHT OUT (24/7/365): 1-800-322-3223

Or on the Web at:

https://www.nationalgridus.com/masselectric/account/forms/stl_outage.asp

TO CONTACT US FOR GENERAL INFORMATION:

Contact us at: <http://www.nationalgridus.com/masselectric/> or

For Residential & small Commercial Customers:	1-800-322-3223
For Large Commercial & Municipal Customers:	1-508-860-6015
Or e-mail our Regional Account Services Office at: BSO-BayStateWest@us.ngrid.com	

MUNICIPAL STORM / EMERGENCY NUMBER: 1-877-559-0241

Not for Public Use. This phone number will only be available when activated by National Grid.

Each municipality will be notified when we activate this number. This number is for Police, Fire and Government use **ONLY** & will be staffed only during storm/emergency conditions.